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Senate

The Senate met at 9:33 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Pastor Daniel Holland, Metro Church of Christ, Oviedo, FL.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Pastor Daniel D. Holland, offered the following prayer:

Our Father in Heaven, as we begin a new day, we recognize that You are God and we are Your servants. We confess that we have not always walked in the path of righteousness and ask for Your forgiveness.

May our work this day be honoring to You. Remind us today that You are a promise-keeping God.

As You gave wisdom to King Solomon, so You promise wisdom to those who ask You. We ask for the wisdom to know the difference between what is right and what is wrong.

As You were with Jesus during the difficult days of the cross, so You have promised never to leave us as we serve You. Please give us the spiritual strength to follow wherever You may lead, even when following means a personal price must be paid. As You promise forgiveness, help us forgive those who sin against us. As You promise to provide for our needs, help us to give of ourselves to others.

Father, give us faith to see Your great and precious promises and courage to govern according to them. Through Jesus Christ our Lord. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore. We will all join now in the Pledge of Allegiance to the flag.

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

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

FIRST PLEDGE OF ALLEGIANCE

Mr. LOTT. Mr. President, I observe that for the first time, I presume, in history we have just opened the session of the Senate with the Pledge of Allegiance led by our most esteemed President pro tempore.

I yield for some brief comments on that to the Senator from New Hampshire.

The PRESIDENT pro tempore. The distinguished Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. I thank the majority leader for his courtesy.

This is a historic day. Ironically, today, the House of Representatives is scheduled to pass a constitutional amendment protecting our flag from desecration and on this same day we are, for the first time in the history of the Senate, as far as I know, saluting the flag as we begin its proceedings.

I thank both leaders, Senator LOTT and Senator DASCHLE, for their support in bringing this resolution to the floor quickly, and also to thank Senators MCCONNELL, HELMS, DORGAN, MIKULSKI, WARNER, BROWNBACK, FEINSTEIN, ROBB, CONRAD, THURMOND, MURKOWSKI, and Senator GORDON SMITH for their cosponsorship and to thank all of my colleagues as we had a 100-to-0 agreement to do this.

I am proud to be the sponsor of this historic resolution. I stand here at a very historic desk, the desk of Daniel Webster, who was here a few years before me.

This is history being made. I want to give credit to the person who helped make this history happen. Oftentimes, we get letters and phone calls from constituents, sometimes with good ideas, sometimes they are not so good. But in this particular case a young woman, who is in the gallery today, by the name of Rebecca Stewart, of Enfield, NH, made a simple phone call to my office. She said: Why don't we salute the flag before the proceedings begin in the Senate?

I said: That's a good idea. Why didn't I think of that? But I had not.

Thanks to Rebecca, who gave us the idea—and I looked into it with the Rules Committee and everything moved quickly, thanks to both leaders—here we are. Today, Rebecca brought with her the flag that was draped over the coffin of her husband's grandfather, who was a World War II vet.

I think it is very fitting this morning that a young woman from New Hampshire, which has the Nation's first primary, was first to see that the flag of the United States will from now on be saluted prior to the proceedings in the Senate.

I say thank you to Rebecca and to my colleagues for their courtesies in making a good idea come to pass.

I thank the Chair, and I thank my colleague for yielding.

Mr. LOTT. Mr. President, I wish to express our appreciation to the Senator from New Hampshire, Mr. SMITH, for his effort. The fact is that the Rules Committee moved swiftly on the resolution. I think I should note for the record that the House of Representatives started this practice some years ago, and it was instigated by my former colleague in the House, Sonny Montgomery. They have been doing it for a number of years, and I think it is most appropriate that we begin to do the same thing in the Senate.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, I think it is important that I take a minute to sort of review the bidding as to what has been going on. There have been a number of discussions as to how to proceed

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

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with the pending agriculture appropriations bill, as well as the two pending Patients' Bill of Rights proposals. Senator DASCHLE and I talked numerous times throughout the day. At one point, beginning on Tuesday night, we talked about trying to find a way to take the Patients' Bill of Rights issues up and deal with them on Wednesday and Thursday. We could not quite get that approved.

Then a proposal was made to go ahead and go forward with the appropriations bills and maybe some other legislative issues that could be cleared and to take up the Patients' Bill of Rights issue on Monday, July 12, when we come back from the recess, and spend until the close of business that week, Thursday, July 15, on the Patients' Bill of Rights issue. Originally, I was thinking it would just be sort of a jump ball; we would get started. We would go forward, no limits on amendments, no limits on time, but understanding everybody had to be fair with each other. There should not be an attempt on this side to block a reasonable number of amendments. Neither should there be an attempt on the other side to say we have to have 18 or 26 or 35 or any requisite number of amendments but just do like we do legislative bills—we take them up and go forward.

Concerns developed on both sides of the aisle, and we modified that proposal two or three times. As of late last night, about 6, we were still exchanging ideas. So we do not have a finalized agreement.

I think progress has been made toward finding a way to complete action on the pending bill; that is, the underlying bill, the appropriations bill, as well as other important appropriation bills. We should be able to find a way to consider the Patients' Bill of Rights issue, because there is belief, I think on both sides, that there are some areas that need to be addressed. There are some rights that need to be protected. There should be some way to appeal decisions within HMOs. Once we make up our minds that we will get together and work through it, I think we will be able to do that. We can continue trying to negotiate, which I am always willing to do, or we can just go ahead and go forward and see what happens.

Keep in mind that this Patients' Bill of Rights issue, or pieces of it, would be on the agriculture appropriations bill, which is not the normal place we would want it. Also, I presume it won't be there when the appropriations bill comes back. So I do not quite understand why we would be doing it this way.

To enable us to negotiate, I will ask for a period of morning business, but I would like to discuss that momentarily with Senator DASCHLE and leadership on both sides.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LOTT. In order to continue working to find a way to handle these appropriation bills, particularly the underlying bill, the agriculture bill, and the Patients' Bill of Rights, I now ask that there be a period of morning business until 10:30 today, with the time equally divided in the usual form.

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

Mr. LOTT. As always, we will notify Senators as to when votes are scheduled, and we will now have the opportunity for Senators who are on the floor and wish to speak to do so while we continue negotiations.

I yield the floor.

Mr. KENNEDY. Mr. President, as I understand, we are in morning business; is that correct?

The PRESIDING OFFICER. The Senator is correct.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I see the Senator from California back on the floor prepared to offer her amendment on the pending legislation. It is an extremely important amendment.

I noted that she was here yesterday morning prepared to offer the amendment, and then in the midmorning, and then at noontime, and then in the early afternoon, midafternoon, and late afternoon.

I am very glad we are going to have a brief period of morning business. But, as one Senator, I hope this is really the last time we are going to have a period of morning business and that we can get on to the business and the substance of this legislation.

We went through all day yesterday with continuations of morning business, and we had some 16 Members—those who are cosponsors of the Patients' Bill of Rights—who came to the floor prepared to speak on the Patients' Bill of Rights, different features of it. Many of them—I think eight of them—are actually prepared to offer amendments but were unable to do so because we were in continued morning business. I see that the Senator from California is prepared to move ahead and move this whole process forward.

I think the American people want us to move ahead on this. I think it is enormously timely that we do, and particularly in the way the Senator from California intends to address the Senate. I know she will speak for herself in a few moments.

We can see what happened in the last few hours among the doctors in this Nation. The American Medical Association is voting to try to come together in a way to advance, one, the quality of health care for the American consumer; and, two, to be able to deal with these economic pressures they are under from the HMOs, in order to give assurance to their patients that they are going to be able to receive the best in terms of health care.

It just underlines, once again, the importance of Senator FEINSTEIN's amendment in terms of what is going to be defined as medically necessary. That is at the heart of this whole issue on the Patients' Bill of Rights. I think we ought to be about the debate on that during the course of the day.

This is a very fundamental, basic difference. I have read carefully—and it didn't take a great deal of time—the comments of those who spoke yesterday in favor of what I call the ''patients' bill of wrongs'' being submitted by the other side, which was passed out of our Human Resource Committee. There was no real focus and attention on this fundamental and basic issue. We ought to be about it; we ought to debate it and vote on it and move ahead on other pieces of legislation.

I find that it appears with the proposal—I see the Senator on her feet at the present time—I listened with great interest to the proposal made by the Republican leadership suggesting how we proceed next week on the Patients' Bill of Rights.

The way I looked at their proposal that was going to be offered by the majority leader, it would effectively permit only one Democratic amendment per day and we would have only 4 days, because under the proposal they would have a first-degree amendment, a Republican amendment, and then you could have a second-degree Democratic amendment and a second-degree Republican. That would take 6 hours. Then you would have a first-degree Democrat amendment, a second-degree Republican amendment, a second-degree Democrat amendment. That is 6 more hours. That is 12 hours with one amendment.

That is not the Senate, Mr. President. I don't believe that offer deserves to be accepted. We were tied up in morning business for a full day because they did not want to vote on a single proposition of whether the insurance company accountants or the medical profession ought to make the medical decisions. That is a very basic and fundamental one. This body ought to make a judgment and decision on that issue.

I see the Senator from California on her feet now, and I hope that after she makes a presentation on this, we will be able to just have the opportunity to commend our colleagues to her position. I have reviewed both her statement and her amendment; it is an excellent one. With the acceptance of her amendment, it will mean that every insurance policy in this country, virtually, will establish a higher standard of treatment for the American patients, for every child, for every member of a family, and that will be the basic standard that will be used.

I don't believe that the American families ought to have any less than the best. The Senator from California has an amendment to address that issue. We should listen carefully to it, and then we should move to let the Senate make a judgment on this decision. I look forward to the discussion and debate, and hopefully we can have some resolution of it.

I thank the Chair and yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from California is recognized.

PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Massachusetts for his remarks. I don't think anyone in the Senate has ever done more to advance the cause of responsible medical reform than Senator KENNEDY from the State of Massachusetts. He also has been here day after day, with comment after comment, in speech after speech, trying to urge this body to act.

My general style is probably not as forceful as that of the distinguished Senator from Massachusetts. But about this particular issue I am going to be persistent, and I am going to be here for as long as it takes, until there is an opportunity to have a vote on this amendment.

Today, this morning, another arrow in the quiver of reform was played out above the fold in the Washington Post—something, as a doctor's daughter and a doctor's wife for many years, I never thought I would see in the United States of America—and that is, the American Medical Association voting to unionize doctors. The subhead under the headline reads: ''Group Acts in Response to Managed Care's Effect on Rights, Duties of Physicians.''

I want to quote two brief things from the article:

> In setting up what they are calling a ''national negotiating organization,'' AMA officials contended that only through collective bargaining can doctors win back control over which drugs they may prescribe for patients and how much treatment they can provide.

Mr. President, it is a disturbing day when physicians have to unionize to be able to prescribe and treat patients as they see fit. I can't believe that this day has come in the United States of America.

Let me end on this subject, with one quote from the AMA president, Dr. Nancy Dickey. She said:

> Traditional unions are there primarily to care for their employee's needs. We are looking for a vehicle that will allow us to carry out the covenant we have with our patients.

That is the reason I am proposing this amendment—or hope to propose the amendment. I hope to have an opportunity to offer an amendment that represents the heart of HMO reform.

This amendment will prevent managed care plans from arbitrarily interfering with or altering the physician's decision of what is a medically necessary service. The term medically necessary, or appropriate, is defined as ''a service or benefit which is consistent with generally accepted principles of professional medical practice.'' That is something none of us can be opposed to. If this amendment were in fact the law, it would not be necessary for the American Medical Association to vote to unionize physicians. Physicians would have that right guaranteed by this amendment. Let me prove that by reading the actual wording of the amendment:

> A group health plan, or health insurance issuer, in connection with health insurance coverage, may not arbitrarily interfere with, or alter, the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnose to the extent that such treatment or diagnosis is otherwise a covered benefit.

The amendment is saying that if an individual buys a policy which specifies treatment for certain illnesses, the physician will be free to treat that patient as medically appropriate with respect to both the treatment and the setting.

That is what physicians at the AMA meeting yesterday just voted, to unionize to be able to care for their patients. Why do they need to have a union to achieve something which is self-evident, which is a part of medical training, which is the history of medicine in the United States of America, and has been the history of medicine in this country, up to the growth of managed care, which again could change and alter that history rather dramatically?

The terms ''manner'' and ''setting'' mean the location of treatment and the duration of treatment. That means, whether the treatment is in the office or the hospital, the physician has the right to determine the type of treatment and the length of, for example, the hospital stay. The physician would have the right to determine these things.

Physicians today are going to unionize in order to get that basic right, a right which we, the Congress, the Senate of the United States, could, if we chose, give them legislatively.

The term ''medically necessary or appropriate'' is defined in the amendment as a service or benefit which is consistent with generally accepted medical practice—a very standard definition, a very well-accepted definition.

This amendment is intended to restore the physician to medical care. Very simply stated, I agree with the American College of Surgeons, which said:

> Any health care system or plan that removes the surgeon [or doctor] and the patient from the medical decision-making process only undermines the quality of the patient's care and his or her health and well-being.

Our system today has done just that. And the action taken by doctors to unionize strongly suggests that.

Medical providers today are feeling kicked around, arm twisted, ''incentivized,'' and compromised when they try to provide good care to sick people.

I am compelled to offer this amendment because I have no other choice. Yes, I want to pass an agriculture appropriations bill, but I have been trying for almost 3 years now to pass legislation like this to restore medical decisionmaking to medical professionals. As Congress dawdles, the complaints keep rising, people get poor care, and people die.

Let me talk a little bit about managed care.

Managed care is a growing form of health insurance in America. I support managed care. I believe it can in fact be a cost-effective way of delivering good health care to large numbers of people. But it can't do that if accountants and the ''green eyeshade'' personnel make the decision for the physician. The physician has to make the decision as to what is appropriate medical care.

Today over 160 million Americans—or 75 percent of the insured population—have managed care plans. My State of California—this is the reason I have decided to be so persistent—has the highest penetration of managed care of any state. Eighty-five percent of insured Californians are in some form of managed care.

As managed care has grown, so have the complaints. There seems to be a steady stream of them into my offices, and into other Congressional offices and in the media.

A Kaiser Family Foundation and Harvard University study found the following:

First, a majority—actually 59 percent of Americans—say managed care plans have made it harder for people who are sick to seek medical specialists.

Second, three out of five—61 percent—say managed care has reduced the amount of time doctors can spend with patients.

Third, a majority of people in managed care—55 percent—say they are worried that if they are sick, their health plan would be more concerned about saving money than about what is the best medical treatment.

In Sacramento, a survey of managed care enrollees found that of those consumers experiencing problems, the most common problems were:

One, delay, or denial of care, or payment, 42 percent;

Two, limited access to physicians, 32 percent, such as difficulty getting an appointment, or limited access to specialists;

Three, concerns about quality of care, 11 percent, including inappropriate treatment, facilities, or diagnosis.

As managed care has grown, the pressures on doctors and other professionals to control costs have come at the expense of people's health. In other

words, as the plans grow, the pressures on doctors to cut treatment, to prescribe cheaper drugs, to cut hospital stays also increase.

Doctors report to us that they have to spend hours on the phone with insurance accountants and adjusters justifying medical decisions. That should not happen. They tell me they have to provide mountains of paperwork documenting patients' problems. This is a real change.

When my father was chief of surgery at the University of California Medical Center, he had one secretary. He saw patients in his office at the University of California. He taught surgery in the medical school. And there was very little paperwork. Today, walk into virtually any surgeon's office, and there is a mound of paper, there are rooms full of staff, there are accountants, and there is a huge stream of paperwork.

Medicine has changed dramatically in the United States. Not all of that is bad. I am the first one to say it. Many people have good coverage. The problem is the cost of that coverage and whether that coverage is providing for timely and appropriate diagnoses and treatments, which are the finest, as Senator KENNEDY said, that people can expect.

I am also told that physicians are spending increasing time having to fight insurance companies that try to impose rules on their medical practices—rules that are not considered to be the best medical practice or may not even fit an individual's illness. They tell me they have to exaggerate illnesses to get coverage. They tell me they have to struggle to balance medical necessity against insurance company bottom lines.

One survey of California doctors by the California Medical Association found that fewer than 10 percent of doctors had good experiences with managed care. That is what is leading to this headline, ''AMA Votes to Unionize.'' That is what this amendment can change.

Another study reported in the November 1998 New England Journal of Medicine found that 57 percent of primary care doctors in California felt pressure to limit referrals, and 17 percent said that this actually compromised the care of their patients.

Doctors are trained to diagnose and treat based on the best professional medical practice. They know that every individual brings to their office a unique history, unique biology, and unique conditions. And they know that people vary tremendously. What works in one person may not work in the next.

The point I am trying to make is that people vary tremendously. The drug that works in one and has no side effects may work differently in another person. A 70-year-old with the flu or pneumonia is very different from a 30-year-old with the flu or pneumonia. A person with high blood pressure or anemia may need an extra day or two in the hospital after surgery.

This is why the physician should determine the treatment, the length of treatment, the length of hospital stay. That is what my amendment attempts to accomplish.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

PATIENTS' BILL OF RIGHTS PLUS

Mr. GRAMS. Mr. President, I wish to talk this morning about health care. I find it ironic we are trying to get to a very important agricultural appropriations bill, and the Democratic side of the aisle is preventing the Senate from moving on that. Hopefully we can work out an agreement on these health care issues and discuss and debate them openly. I look forward to the debate.

I find it humorous when Senator KENNEDY calls our bill the ''Patient Bill of Wrongs''. It seems that if it is not his way, it is the wrong way. Our bill is the Patients' Bill of Rights Plus, which I think goes further in trying to encourage people to get health insurance and to have coverage, rather than leading America toward a government-type system of national health care.

I am looking forward to the debate. I hope the agreement can be worked out and we can discuss the different views on health care reform, listen to Senator KENNEDY on his Patients' Bill of Rights, and also to have adequate time to fully debate the Republican plan, Senator NICKLES' bill, the Patients' Bill of Rights Plus. I think we must have time to compare and contrast those two plans. I think the American people are going to get a good idea where both parties stand on the direction of health care and health care reform in the near future.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 1274 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I ask unanimous consent at the conclusion of my remarks that the Senator from North Carolina, Mr. EDWARDS, be recognized for 10 minutes.

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

Mr. TORRICELLI. Mr. President, once again my Democratic colleagues in the Senate have joined this week in a discussion of the overwhelming national need for reform of managed health care. Once again, Senators from States across the Nation have shared the experiences of their constituents, the frustrations of their families at being denied the treatment and care through managed care for which they are paying.

Once again, it has been a one-sided discussion. We have been talking about the need for reform of managed care while our friends and colleagues across the aisle have been preventing any real debate. The American people have waited long enough for a basic and fundamental reform of the managed health care system in America. We have allowed weeks, months and even years to pass while recognizing American families are in jeopardy and not receiving the care they need, deserve, or have even paid for. There is simply no further excuse for delay.

During this session of the Congress, this Senate has spent 7 days considering 38 amendments on the relatively simple concept of educational flexibility. The Senate had 8 days available for 52 amendments on juvenile justice; 4 days for 159 amendments on defense authorization; 13 days to consider 51 amendments on the Y2K problem. These were all important issues, all legitimate. But in each and every instance time was not an issue; the available amendments by Members of the Senate were fully considered. On this single issue, which affects as many or more Americans than any of these others, the Senate does not have time; it cannot give its attention.

Like other Members of the Senate who have come to the floor to discuss the experiences of their constituencies, I want to share the experience of one of mine: A young woman from Spotswood, NJ, Kristin Bolinger. Kristin suffers from a unique condition that causes seizures and scoliosis, but it can be managed with proper treatment. The genius of medical science in America, the care of her doctors, can prevent these seizures that are interrupting her life. Her family is enrolled in an HMO. She was denied access to a specialist, the one with the knowledge to treat her illness. The procedure was deemed unnecessary. She was denied critical home nursing, denied physical therapy, denied reimbursement. The fact of the matter is, the care her parents were paying for, she was paying for, the benefit of the genius of American medical science, was denied to her.

There are 161 million Americans just like Kristin, covered by managed care, who simply cannot wait any longer for this Senate to find their problems, the tragedies of their families, relevant. In my State, in New Jersey, 3.8 million people who are part of health maintenance organizations have no legal protections. Like their fellow citizens across America, they believe it is time for us to act. The American people have been polled and 79 percent are in favor of and demand some reform in the management of health care in America. They believe, as I believe, that doctors, specialists, people trained to care, should be making these medical judgments; not accountants, not financial managers. People should be making decisions to provide care who know what care is required.

There is a lot that has changed in American health care through the years. The family doctor who in the middle of the night knocked on your door to help may be gone. By necessity, it may all have changed. But we do not have to abandon that one principle

that has always been at the foundation of private health care in America—doctors make health care decisions.

Mr. President, 30 percent of the American people, an extraordinary number, claim they personally know someone who needed health care, who had a problem, and was denied that care although they were enrolled in and had paid for a managed care plan.

Here is the answer. Here is the legislation we would like to bring to the Senate that addresses these problems—it is overwhelmingly supported by the American people—but we are denied the opportunity to do so.

No. 1, ensure that doctors, not the HMO, determine what is ''medically necessary.''

No. 2, guarantee access to a qualified specialist for those who need one, even if that specialist is not part of the HMO.

No. 3, ensure independent medical appeals for treatment denied by the HMO, so when you are denied treatment, there is someone else to whom you can make your case to get care for yourself, your family, or your child.

No. 4, guarantee wherever you are in America, if you need to get access to an emergency room, you can get into that emergency room.

In sum, what this would provide is some new sense of security in health care in American life. Americans with cancer would be guaranteed access to an oncologist, not just a family doctor. If their HMO denied access, they could go on and appeal to ensure the right judgment was made, and the oncologist, not the HMO, would decide their treatment. In substance that is what this means. This is important for all Americans.

Let me conclude by saying there is a category of Americans for whom these reforms are the most important. Mr. President, 75 percent of all the medical decisions in families in America are made by women, for themselves and for their children. One of the things that is required in our legislation is that an OB/GYN can be a primary health care provider, can make the necessary judgments on first impression. It is, perhaps, one of the most important reforms in the Democratic Patients' Bill of Rights. It is overwhelmingly supported by American women. But we also prohibit drive-through health procedures like mastectomies and guarantee access by children to pediatric specialists.

From American children to American women to all American families, there is an overwhelming need to begin these reforms. It can be postponed for another year, another few years, maybe another decade. The only thing the Senate guarantees by postponement is that the list of millions of Americans who are not getting to specialists, who are denied access to emergency rooms, whose medical doctors are not allowed to make the ultimate determinations—that list is growing. It is growing, and so is the frustration of the American electorate.

I hope in this session, in this year, in this Senate, the need for a Patients' Bill of Rights finally comes to be recognized and accepted.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. I thank the Chair.

Mr. President, I appreciated and enjoyed the remarks of my distinguished colleague from New Jersey. I come again to the Senate Chamber to talk about what I believe is a crisis in America today, which is the issue of health care and the desperate need for a Patients' Bill of Rights.

If we need more glaring evidence of that, all any American needs to do today is open the front page of their newspaper and find that the American Medical Association is supporting doctors being allowed to form unions. Nothing can better exemplify the crisis with which we are confronted.

Here are medical professionals, the last group anyone would imagine, forming a union or finding the need to form a union, who now find, in order to do what they believe is right—to make medical decisions about the patients they care so much about, to be allowed the autonomy to make those decisions and not have those decisions made by health insurance bureaucrats sitting behind a computer screen or a desk somewhere—it necessary to talk about the need to form unions.

I listened to my colleague from California earlier this morning. I agree with everything she said. Only the most skeptical of us would have ever thought this was a possibility. The root cause for the doctors' need to form a union is that they want to make medical decisions about the care of their patients and, more specifically, they want to decide when a procedure is medically necessary and when a procedure is not.

If I can use two examples which I think glaringly show the problem doctors in this country and patients are confronted with today, they are two I have mentioned before on the floor of the Senate. One involves a young man named Ethan Bedrick who developed cerebral palsy as a young child. One of the problems associated with cerebral palsy is the development of what is called muscle contractures. We have all seen adults with cerebral palsy who are all balled up, their arms held up against their bodies. They have little or no control over their limbs. The reason that happens is because, as children and as young adults, these patients do not receive physical therapy to extend their limbs on a regular basis to give them their best use.

What happened with Ethan Bedrick is every single doctor who was treating him for his cerebral palsy—and there were myriad doctors—said it was absolutely essential he receive physical therapy. This was a group of doctors who had seen him every day and was responsible for his care.

Then some insurance company doctor, sitting behind the desk looking at a piece of paper, who had never seen Ethan Bedrick, never examined him and, I will add, unlike all the doctors who were treating him, had absolutely no expertise in treating kids with cerebral palsy or the issue of physical therapy for those kids, made the decision this was not medically necessary. Therefore, the insurance company decided it was not going to pay for any physical therapy for this boy.

After some 2 odd years of going to court and going through a lot of litigation procedures which absolutely should never have been necessary, the U.S. Fourth Circuit Court of Appeals determined the obvious, which is that the treating doctors were correct, that Ethan desperately needed this physical therapy for the purpose of keeping him from becoming like so many adults with cerebral palsy who we have seen all balled up and unable to control their limbs in any way.

They reversed the insurance company decision and said they had to provide this treatment. It took over a year after that decision before the insurance company actually began to do something.

It is a perfect example of insurance company bureaucrats and accountants making health care decisions. That is the reason doctors feel the need to unionize, so they can make these decisions instead of insurance companies.

A second example is a man named Steve Grissom from Cary, NC, who developed leukemia as a young man. As a result of his leukemia, he had a blood transfusion. During the course of his blood transfusion, he acquired AIDS. He became sicker and sicker with his AIDS to the point a pulmonary specialist, a leading authority in the world at Duke University Medical Center, prescribed oxygen for him 24 hours a day, 7 days a week.

What happened was during the time he was being treated, his HMO was providing coverage for him because the pulmonary specialist, the real expert, determined it was necessary. Then his employer changed HMOs. The new HMO—again with some person sitting behind a desk somewhere, not a medical doctor—decided based on a chart that he did not quite meet the numbers for oxygen saturation that were necessary and, therefore, cut off all coverage for the oxygen that his world-renowned specialist had ordered for him.

Now Steve is working desperately—in fact, he is coming to Washington this week to see me and other Senators—to pay for the oxygen that keeps him alive. It is one of the reasons he is alive and able to be with his family, which he loves and cherishes so much.

These are terrific examples of what is fundamentally wrong with our health care system in this country today. The judgments of what is medically necessary have to be made by people who are trained to do it. They have to be made by doctors who are seeing the patients, who have the clinical judgment to make those determinations.

It is critically important for our doctors to do their job. It is critically important for the children, adults, and families they treat. In our Patients' Bill of Rights, we specifically provide that doctors make those decisions. Our opponents' bill does not do that, and that is why the bills are so dramatically different.

One last thing I want to mention is the issue of financial incentives that are sometimes created in HMO contracts either explicitly or implicitly. I know specifically of an example in North Carolina where a mother was in labor. The doctor who was responsible for taking care of her had too many patients to care for. As a result of complications during labor, she needed her doctor. The nurse called for the doctor. The doctor did not come. She did not understand why.

The reason was the doctor had other patients he could not leave. Instead of calling for a backup, the doctor continued to allow this woman to labor with her complications without a doctor by her bedside.

The result of this was a child born severely brain injured. We later learned the reason this is done, the reason no backup doctor is called is because there is enormous pressure, financial and otherwise, put on these physicians by the HMO, by the health insurance company, not to call a backup doctor because it costs them money. It costs the health insurance company and the HMO money, and, further, that they can actually receive bonuses if they prescribe the least expensive treatment for patients, no matter what the patient needs, and if they fail to call backup doctors even though one may be needed. In other words, the HMOs have been putting doctors in the position of having to provide the cheapest treatment, not call other medical personnel who are necessary, solely so they could save a dollar.

These things are what are fundamentally wrong with the way health care is being conducted in this country today. There is a fundamental difference between our bill and our opponents' bill. Our bill specifically provides that these kinds of financial incentives are absolutely prohibited; they cannot occur. Our opponents' bill is silent on that issue.

We cannot continue to allow the American people to be subjected to this. It is the reason we have this crisis. It has gotten to crisis proportions because we have gone this long and done nothing about it. Medical care should be about patients and not about profits.

I say this, in a most nonpartisan way, to my colleagues on both sides of the aisle, for whom I have tremendous respect and who I know want to do the right thing for the people they represent and the American people.

This is not a partisan issue for me. It was an important issue to me in being elected to the Senate. It is an issue I want to talk about while I am here. But I want to talk about it in an ongoing, meaningful dialogue. I am not interested in fighting about it. I am not interested in political bickering. What I am really interested in is what is done in the best interests of the people of North Carolina and what is in the best interests of the people of America.

With that, I yield the floor.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I note the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

The assistant legislative clerk continued with the call of the roll.

Mr. DORGAN. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Since I hope we have debate, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Mr. President, as much as I like my colleague from Arkansas, I am going to put in this request. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

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

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

The assistant legislative clerk continued with the call of the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

The assistant legislative clerk continued to call the roll.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

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

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

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

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. Mr. President, so we can debate health care, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded so we can debate health care, a matter that is very important to the people in Minnesota.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object to the unanimous consent request.

Mr. WELLSTONE. Mr. President, so we can speak as Senators, Democrats and Republicans, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object to the unanimous consent request of the Senator from Minnesota.

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

The PRESIDING OFFICER. Acting, as in the past, in my capacity as a Senator from Arkansas, I object to the unanimous consent request of the Senator from Minnesota.

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

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I regrettably must object to the unanimous consent request.

Mr. WELLSTONE. Mr. President, I know you regret that because you like debate. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so we can have a full-scale discussion on the Family Protection Act on the floor of the Senate as opposed to being gagged.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Arkansas, I object to the unanimous consent request of the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, even though I know Republicans don't want to debate this, I ask unanimous consent that the order for the quorum call be rescinded so we can debate.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

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

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, so I can debate my colleague from Oklahoma and other Republicans, I ask

unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN. On behalf of the Senator from Minnesota, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, on behalf of the Senator from North Dakota and all Senators who believe we should honestly debate issues, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, so we can debate the Patients' Protection Act, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

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

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

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

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. The Senate is in a quorum call.

The assistant legislative clerk continued with the call of the roll.

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

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

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

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

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

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

RECESS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:30, at which time there will be a period of morning business not to exceed 1 hour equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, and I shall not object, my understanding is there is a conference occurring on the other side that the two Members of the majority party in the Chamber wish to attend. We want to allow that to happen.

I point out, under my reservation, it is my hope that when we reconvene with the hour of morning business, whatever transpires beyond that will be an agenda that allows Members on the floor of the Senate to come and discuss the issues they want to discuss. I will not object with that caveat.

Mr. REID. Mr. President, reserving the right to object, I ask the Senator from Oklahoma to amend the unanimous consent request to allow the Senator from Minnesota, Mr. WELLSTONE, to have 10 minutes during our block of time.

Mr. INHOFE. Before amending my request, I ask the Chair, would the Senator from Minnesota be entitled to 10 minutes of the half hour that they already have under my request?

The PRESIDING OFFICER. Only if he were recognized.

Mr. INHOFE. I so amend.

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

Thereupon, the Senate, at 10:58 a.m., recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HUTCHINSON).

The PRESIDING OFFICER. Who seeks time?

Mr. BROWNBACK. Mr. President, might I inquire, where are we parliamentary-wise?

The PRESIDING OFFICER. We are in morning business for 60 minutes equally divided.

U.S. POLICY TOWARD INDIA AND PAKISTAN

Mr. BROWNBACK. Mr. President, I rise to address the Senate on an issue regarding an amendment which we have recently passed on this floor: U.S. policy toward India and Pakistan. I want to address the Senate on that issue.

We passed an amendment on a defense appropriations bill that would allow the President to waive certain sanctions we have against India and Pakistan and also suspend economic sanctions we have against India and Pakistan. That passed this body and has gone over to the House. This is something the House is going to be considering, and it is important U.S. policy in a number of regards.

Our relationship toward India has been one where we have been willing to sanction them rapidly and readily, in spite of the fact that they are a democracy and we share a number of institutional values and we have worked together sometimes in the past. But it seems as if we are very willing to sanction them. Yet, at the same time, we are willing to go toward China and say: China, you may steal our weapons technology, you may have human rights abuses, you may be shipping weapons of mass destruction to countries that are opposed to our interests; you have forced-abortion policies in place. Yet we are going to overlook all of those things because we want to have a good, open relationship with you, a good trade relationship. But, India, you tested here and you broke into these areas, so we are going to put economic sanctions on you, put these other sanctions on you, and we are going to hit you hard. It is the same with Pakistan.

I think we have the wrong policies in place, and I don't understand it. I want to draw that to the attention of my colleagues because it appears as if we are putting these on with different balances, that we are saying in the case of China we are going to overlook the problems, overlook the situation, all these abuses, and with India we are going to smack you no matter what you do. They have a democracy, a vibrant democracy and a free press. The same with Pakistan, as far as their issues go, but we are willing to hit them so hard.

So I don't understand why we are doing that, why the Clinton Presidency looks at the two countries differently, and lets China get away with virtually anything, if you look at the record that has built up over a period of time. Toward India, we say we are going to smack you.

Senator ROBERTS and I have put forward an amendment that has passed this body and is going to the House. It

would suspend these sanctions, the economic sanctions, toward India and Pakistan.

I think it is high time that the United States aggressively build its relationship with India and aggressively build its relationship with Pakistan. We need to do this. We need to have a broad-based relationship and not one that just has very narrow sanctions associated with it. For instance, as well, the administration is pushing that to lift these sanctions on India, they are telling the Indian Government, basically, they have to agree to CTBT, the Conventional Test Ban Treaty, in spite of the fact that the Senate may never pick this up. They are saying unless they agree to this, we are not going to lift these sanctions. It is a very narrow discussion point that they have with India, instead of having this broad-based discussion about how can we expand trade relationships, expand diplomatic relationships, and work together on issues of key concern.

We should be asking: How can we expand relationships in the broad set of fields that we have? Instead, it is they have to agree to the CTBT, or we are not going to lift these economic sanctions on them, period. That is too narrow of a relationship for us to build with a great nation. India will be the largest nation in the world in the next 10 years, population-wise. It has an extraordinarily large middle class. It has a number of people in a very poor situation, as well, but it has a large middle class.

Look also at Pakistan. It is in the amendment where we suspend economic sanctions for 5 years and have a waiver on others. Pakistan sits in a difficult spot, right next to Afghanistan. They have had a lot of problems with Afghanistan. Pakistan seeks to be a friend of the United States. It is partly, obviously, an Islamic country and has been a key ally of ours in defeating the Soviet Union in Afghanistan. After Afghanistan, the Soviets backed off and we pulled out altogether. We not only sanctioned them under the Glenn amendment, we also had the Pressler amendment that basically removed our relationship with Pakistan, an Islamic country that seeks to be our friend, and we just nail them.

It makes no sense to me why we do these sorts of things, and why the President, the Clinton administration, seeks to sanction a country that seeks to work with us, and closely with us, while with China we have had all this theft of technology, shipment of weapons of mass destruction, all the human rights abuses, and we are willing to look the other way.

I think we ought to have trade relationships with China. I think it is important that we have a broad-based relationship with China. But at the same time we need to be expanding our relationships with India and Pakistan. These are countries—particularly in India's case—that share a lot of our traditions. I think it is wrong for us to have a double standard, particularly against a country that should be a very valuable future partner.

I chair the Foreign Relations subcommittee that deals with both India and Pakistan, and it has been beyond me to understand the difference in U.S. policy toward these giant Asian countries. I think it is wrong of the administration to have this different policy. I think we really need to be much more aggressive and engaged and be a vibrant, broad-based partner with India. I think it can be a good future relationship. It is something we can use as an offset toward China, in some respects, and our large dependency on China. I think it can be a future growth market for States such as mine and many others that have agricultural and aircraft products that we export. I think it can be a growing, vibrant market for us, one that shares a lot of our relationships and views and needs.

I wanted to bring to the attention of my colleagues what is really happening in foreign policy. We also had a hearing yesterday on the issue of Iraq. I wanted to mention this tangentially because I think it is appropriate. We had people testifying from the Iraqi National Congress—a representative of the INC, Mr. Chalabi—and we had other witnesses testifying that Saddam Hussein is probably at his weakest point since the United States was engaged with Iraq. They are having daily reports of insurrection in the southern part of Iraq, and the northern part of the country is no longer in the control of Saddam Hussein.

There are other factions that are controlling much of this Kurdish region. Yet the United States, in the Iraq liberation, provided $97 million of drawdown authority and support for the opposition movement, and all we are giving the opposition movement is file cabinets and fax machines. Why aren't we really supporting this opposition movement that seeks to meet inside Iraq to set up more of a civil society in the region that Saddam doesn't control? Why aren't we really supporting these guys?

I asked the administration witness yesterday—Under Secretary Beth Jones, a bright and good person—Do you think Saddam Hussein is going to outlast another U.S. President? Is he going to outlast President Clinton?

She says: I really don't know.

I said we know how to aggressively push and prosecute these issues in Kosovo. Why is it that we can't do this in Iraq? Why can't we support the opposition groups and give them lethal and nonlethal assistance that we can find truly necessary? Why can't we help them have a meeting of the Iraqi National Congress inside Iraq where they want to meet? It would send a powerful statement across the world that the INC, a potential opposition government, is meeting within Iraq.

Yet the administration is not willing to step forward and is saying they are not so sure about whether or not we should do this. We are willing to give the opposition file cabinets and fax machines, but we won't give them training and lethal technology or the ability to fight. This is an extraordinary situation. It is one on which the Congress needs to speak out more.

We need to aggressively move forward now on Saddam Hussein. We need to do that by supporting the opposition. This isn't about sending in U.S. troops. This is about supporting an opposition that wants to fight with Saddam Hussein, that wants to put the parts together to have a democratic Iraq, that wants to be an ally—not just that but wants the Iraqi people to be proud of and pleased with their government, instead of constantly harassed and killed by their leadership.

Why on earth are we not pushing this and stepping forward and being more aggressive? I fail to get adequate answers from the Clinton administration on why. We know how to push forward aggressively on Kosovo. Why can't we deal in such a manner with Iraq? We know how to build a relationship with China. Why can't we build relationships with India and Pakistan? I really don't understand what is taking place. I ask these questions, and we are going to continue to hold hearings on these issues. We need to move forward in building a better relationship with India and Pakistan and dealing with the situation in Iraq.

I yield the floor.

Mr. WELLSTONE. Mr. President, how much time is remaining?

The PRESIDING OFFICER. We have 18 minutes on the Republican side and 30 minutes remaining on the Democrat side. Ten minutes have been reserved for the Senator from Minnesota.

The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am not going to take my time at this moment. Senator KERREY will precede me.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Alexis Rebane and Sofia Lidshog, two interns, be allowed floor privileges for the debate today.

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

ORDER OF PROCEDURE

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Senator CLELAND be allowed to be in order as the Democrat to speak after I speak for up to 10 minutes.

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

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

READING SCORES

Mr. KERREY. Mr. President, I am here to take a couple of minutes to

point out a success story that appeared in the Lincoln Journal Star.

I ask unanimous consent that this article be printed in the RECORD.

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

[From the Lincoln Journal Star, June 23, 1999]

READING SCORES RISE AGAIN

(By Joanne Young)

Right before his eyes, Steven Hladik saw his daughter's life change.

''She's just happy. She went from being a sad little girl to totally loving life,'' Hladik said of his third youngest child, Nikyle, 6.

He attributes the change to Reading Recovery, one program Lincoln Public Schools has used to improve first-graders' reading skills. A dramatic decline over 15 years in reading scores of elementary- and middle-school students prompted LPS to focus on bringing those scores up.

Metropolitan Achievement Test reading scores are up for the second straight year for grades 2–8, according to a report to the Lincoln Board of Education. This snapshot of 1999 achievement showed that since 1997, second-graders have improved 16 percent. Third-graders are up 12 percent, fourth- and fifth-graders up 8 percent. Only ninth-grade scores have held about the same.

Math scores, which had declined along with reading scores, are up in all grades, with six of eight grades working at 70 percent or better of their peers nationwide.

LPS Associate Superintendent Marilyn Moore delivered the good news Tuesday at a school board meeting.

Board member Shirley Doan said the improvements came because of commitment by teachers, principals and students.

''I think we have giants standing on the shoulders of giants here,'' Doan said. ''Can we do it again? It would be very unusual, but I think we can.''

About the same number of students were tested in 1998 and 1999. More special education and English as a Second Language students were given accommodations this year, such as more test time and help with instructions. But a second analsis of '98 and '99 scores that excluded all special education and ESL students verified that scores improved, Moore said.

Leslie Lukin, LPS assessment specialist, pointed to several reasons for the reading improvement: Teachers have changed the way they teach reading in kindergarten through third grade, with different teaching plans for each grade. They also are familiarizing students with the format and type of questions on the achievement tests.

But Reading Recovery may have produced the most dramatic results.

Aimed at the 20 percent of first graders having the hardest time learning to read, the program offers one-on-one help with letters, sounds, sentence structure and reading methods. Kids spend half an hour a day with Reading Recovery teachers and special books. Then they read at home with parents.

Jeanette Tiwarld, the LPS Reading Recovery teacher leader said Reading Recovery builds on children's strengths—what they already know—to accelerate their learning and improve their confidence.

The number of children in the program have gone up as more teachers have taken the rigorous Reading Recovery training and more schools have added the curriculum. In the 1994 school year, 78 children passed through the full program. Last year, the number jumped to 527.

Questionnaires from parents of this year's Reading Recovery students sang the praises of the program. Their children were much more confident, they said, far happier after catching up with their schoolmates in reading.

For Nikyle, it was a godsend.

She had changed schools three times in kindergarten, just as she was starting to learn, because her mom and dad were splitting up, her dad said. She started first grade at McPhee Elementary and then when her father got custody of her and three brothers and sisters, she moved to Calvert Elementary.

All the while, because of everything going on in his own life, Steven, Hladik didn't realize the effect on Nikyle. She was being in learning, and she was miserable.

''She hated to go to school. It was hard to get her up and make her go,'' her father said. ''She was insecure and really quite.''

Now she loves school. And her confidence has soared.

Not only has her reading improved so have her math and other subjects, her friendships, her self-esteem.

She's making sure what happened to her doesn't happen to her 4-year-old sister, Stephanie.

''Every night she sits and reads books to her,'' her father said.

Mr. KERREY. Mr. President, this is about the success of a Federally funded program that was implemented by heroic people in Lincoln, NE—they include principals, schoolteachers, and the Lincoln school board. I am talking about Title I. One of the reasons I talk about it a great deal is that, in Nebraska, there are 17,000 students that are eligible for Title I, but because we don't appropriate enough money, they are not funded. They don't get the benefits of this kind of effort.

What this article talks about is a program called Reading Recovery that has been implemented in the Lincoln public school system over the last 3 years—and it's a very rigorous program. The teachers had to train themselves; they had to make a commitment to acquire the skills necessary to implement this program. The article starts off with a parent talking about the exhilaration of seeing his daughter learn how to read and make progress—be successful, in other words. What they have done is quite remarkable. It needs to be observed because citizens need to know that success indeed is possible.

Second graders have improved their reading scores 16 percent; third graders, 12 percent; fourth and fifth graders are up 8 percent. These are dramatic increases. They have achieved the increases by starting at a very early age, using Title I moneys, using this Reading Recovery program, and going after young people who are at risk, who are falling behind, who have come into the school system without these reading skills.

They have said if you want to lift the overall test scores, quite correctly, you have to help those who are most likely to fail if we don't intervene. That is what Title I is. It is not the Federal Government telling these local schools what to do. We recently passed an Ed-Flex bill that provided increased flexibility. I support that. But unless we provide resources, it is impossible for local heroes to take the money and make something of it.

I will point out, in addition to the necessity of an early effort, an additional challenge we face. It's explained in one little paragraph here. Those of us born in 1943 sort of remember schools in the 1950s and 1960s and think, gee, why can't we do it the way we did it? Things have changed. In this article, one little paragraph says the following about this young girl who was given the benefit of this program:

> She had changed schools three times in kindergarten, just as she was starting to learn, because her mom and dad were splitting up, her dad said.

She ended up caught in the middle of a custody battle, a transfer occurred, and as a consequence of the transfer, she fell behind. That is what happened. What Title I enabled her to do was catch up. It is quite a miraculous thing that happened as a consequence, as I said, of significant local commitment and the help of teachers who trained themselves and a principal who was committed. One of the principals is Deann Currin at Elliott Elementary. The Lincoln school board supported Reading Recovery. They used title I money. Again, it is not the Federal Government telling them what to do, but providing them the resources.

I regret to say that in Nebraska, there are 17,000 children eligible for Title I programs that simply are not able to benefit because we are not providing a sufficient amount of resources.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

CHILDREN AND EDUCATION

Mr. WELLSTONE. Mr. President, first of all, I thank Senator KERREY for talking about children and education. It is truly a good news/bad news story. The good news is we have heroes and heroines right in our own communities that, with these resources, can really give children a chance to develop their full potential. If there is anything we should do as a Senate, it is to make sure each child has that chance. The bad news is, I say to my colleague, in Minnesota so many students could be helped, but we don't have the resources. There are schools in Minnesota with up to a 65-student population that don't receive a cent because by the time it is allocated in the cities, the schools aren't eligible, and those kids don't receive the help. It is just as big an issue in rural areas.

Mr. KERREY. Mr. President, this is not a situation where we don't know what to do. This is a situation where there is an answer and we simply are not doing it.

Mr. WELLSTONE. That is correct. This is really just harping on the complexity of it all is the ultimate simplification. We know what to do, and it

has worked. We need to make more of a commitment.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

UNANIMOUS CONSENT AGREEMENT

Mr. THOMAS. Mr. President, I ask unanimous consent to follow Senator CLELAND for 10 minutes.

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

PATIENTS' BILL OF RIGHTS

Mr. WELLSTONE. Mr. President, my understanding is that we have not reached an agreement with my colleagues on the other side of the aisle about how we can have a serious, substantive, and important debate about health care, about patient protection in our country. The latest proposal as I understand it from the Republicans basically would amount to Democrats having an opportunity to maybe introduce four amendments. That would be it. Again, I challenge my colleagues on the other side of the aisle, as I said yesterday, to debate this.

The evidence is irrefutable and irreducible: When it comes to who is covered, the Republican plan covers 48 million people, the Democratic plan covers 163 million people. That is a huge difference.

Republicans argue that we rely on States for the coverage, once we deal with what is called the ERISA problem. Our argument is that a child, a family, regardless of where the child lives, where the family lives—be it Mississippi or Minnesota—ought to have some protection. People ought to have the right, or the assurance, that if their child has a serious illness, they will be able to have access to the best care. That assurance for a family should extend to all citizens in our country. It shouldn't be based upon what different States decide or where a family lives.

I repeat, 163 million people with some protection versus 48 million people. It is no wonder my colleagues on the other side of the aisle don't want to debate patient protection.

In the Health Committee, where we wrote this bill, I had an amendment that dealt with the Republican ''gag'' clause. This amendment would prohibit retaliation by a health plan when a doctor advocates for a patient. There were two parts: First, it said that plans can't penalize doctors who advocate for patients during an appeal process; and, second, it protected licensed and certified health care professionals from retaliation if they reported some problems with the actual quality of care being provided in a hospital or by a plan. Presenting this information to a regulatory authority or private accreditation organization is called whistleblower protection. This amendment was defeated, I think, on an 10–8 vote. It is no wonder the Republicans in the Senate don't want to debate patient protection.

The front page story today says doctors are going to unionize. The American Medical Association announces doctors are going to unionize. No wonder, when doctors don't have protection if they advocate for a patient during an appeal process, when one of these managed care plans, owned by one these insurance companies practicing bottom-line medicine, and the bottom line is the only line, and the plan decides the patient is not going to be able to see a pediatrician who specializes in oncology.

If a child is ill with cancer and that family makes an appeal, if the doctor is there for that family and says, yes, that child needs to see this expert, there is no protection in the Republican plan. There is no whistleblower protection for doctors who say, I have to speak out, I have to say this plan, or this hospital, is not providing the kind of care that people deserve. I don't blame my Republican colleagues for not wanting to debate patient protection.

This chart shows whether or not you will have guaranteed access to specialists. The Republican plan has a little bit of access; the Democrats' plan makes it clear that people will have access.

When it gets to the question of who is going to define medical necessity—that is a critical issue—we make it clear that the provider defines medical necessity, not a 1–800 number you call where you have utilization review by people not necessarily qualified, working for insurance companies that are just trying to keep costs down.

When it comes to the issue of choice of doctor, points-of-service option, being able to find a doctor outside your plan, and making sure your child who needs to see that doctor can see that doctor, we are clear: Families should have that option. The Republican plan doesn't support that. No wonder they don't want to debate.

When it comes to whistleblower protection for providers who advocate for their patients to make sure they don't lose their jobs, the Republican plan doesn't provide the protection. The Democrat plan does. No wonder my colleagues don't want to debate.

When it comes to the concerns and circumstances of women's lives vis-a-vis a health care system that has not been terribly sensitive and responsive to women, or with special emphasis on children and access to pediatric services, or making sure that people who struggle with mental health problems or substance abuse problems are not ''defined'' out and are not discriminated against, I don't see the protection in the Republican plan. We try to make sure there is that protection.

These are two plans, two proposals, two pieces of legislation where the differences make a difference.

I say one more time to my Republican colleagues, I have been trying to engage people in debate for 2 days. I will yield for any Senator who wants to debate, on my time, so I can ask questions. That is what we should be about. The Senate should be about deliberation and debate. It shouldn't be about delay and delay and delay and delay.

It may be that we will not get the patient protection legislation on the floor today, Thursday, but we will get this legislation on the floor. We will continue to bring up these problems that the people we represent have with this health care system right now. We will continue as Senators to advocate for families, to advocate for consumers, to advocate for children, to advocate for women, to advocate for good health care for people.

If I had my way, the Democratic Party would be out here on the floor also calling for universal health care coverage. We will get there. At the very minimum, let's make sure there is decent protection for consumers.

I say to my colleagues, I have carefully examined your patient protection act. I think it is the insurance company protection act. We went through this in committee. We went through the debate in committee. I see a piece of legislation that pretends to provide protection for people, but once we have the debate and once we get into specifics, I think people in the country are going to be furious. They will say, don't present us with a piece of legislation with a great title and a great acronym that has no teeth in it, that has no enforcement in it, and that will not provide the protection we need.

That is why the majority party, the Republican Party in the Senate, doesn't want to debate this. Republicans in the Senate right now—I hope this will change—do not want to have to come to the floor and debate amendments. They don't want to have to argue why they don't cover a third of the eligible people. They don't want to have to argue why they don't want to make sure families have access to specialized services. They don't want to argue why they don't want to provide doctors with whistleblower protection. They don't want to argue a whole lot of issues that deal with patient protection.

When you want to debate is when you really believe you are right. When you want to debate is when you really think you have a piece of legislation that will lead to the improvement of lives of people. When you want to debate is when you have a piece of legislation that is consistent with the words you speak and you know you are not trying to fool anybody; you know it is authentic; you know it is real.

When you don't want to debate, I say to my Republican colleagues, is when you have a whole set of propositions you cannot defend. When you don't want to debate is when you know in the light of day, with real debate, with people challenging you, you can't defend your proposal. When you don't want to debate is when you are worried

you will get into trouble with the people in the country because you haven't done the job.

That is what is going on.

One final time, I come to the floor of the Senate to urge my Republican colleagues to be willing to debate this question.

Let me make a connection to what Senator KERREY said earlier, because it is so important to me. If there is anything we should be about as Senators, it should be about focusing on good education, opportunities for children, good health care for people, making sure families don't fall between the cracks. These are the issues that people talk about all the time in our States. That is what we ought to be focusing on right now.

I yield the floor.

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

Mr. CLELAND. Mr. President, I thank my distinguished colleague from Minnesota for his remarks today on the subject of health care and HMO reform, and particularly his strong advocacy for what has become known as the Patients' Bill of Rights.

I would like to report to my colleagues in the Senate the most recent Kaiser Family Foundation/Harvard University survey reports that problems with managed care are, indeed, growing and that Americans are increasingly worried about how their health care plan will treat them. The survey found that in 1998 as many as 115 million Americans either had a problem or knew someone who had a problem with a managed care plan.

A number of provisions have been included in the Patients' Bill of Rights to maintain the sanctity of the provider-patient relationship, basically known as the doctor-patient relationship. We used to think that was sacrosanct. Unfortunately, it is not today under many HMO plans. Health plans frequently impose restrictions on that relationship by taking it upon themselves to determine the most appropriate treatment. These determinations are often made on the basis of costs rather than what is in the patient's best interest. The fact that health plans are now making medical decisions that were traditionally made by the treating physician really causes me great concern. I think it concerns a number of Members of this body.

If health plans continue to arbitrarily define medical necessity, patients will be ultimately denied the health care they were promised. In this HMO debate, this debate on reforming health maintenance organizations, I do not think there is any more pressing issue than ensuring that patients are protected against the practice of some health plans of having insurance bureaucrats determining medical necessity rather than trained physicians. I think that is an incredible abuse of the system. I think it is terrible when we treat people based on financial necessity rather than medical considerations.

Health plans, I don't think, should interfere with decisions of treating physicians when those decisions concern a covered benefit that is medically necessary, according to that physician, and appropriate based on generally accepted practices and standards of professional medical practice. It seems to me that is common sense.

The Patients' Bill of Rights protects the sanctity of the doctor-patient relationship by allowing physicians, not accountants, to make medical necessity determinations. I think that is critical. In addition, some managed care organizations use improper financial incentives to pressure doctors to actually deny care to their patients—incredible. The Patients' Bill of Rights, I think, will go a long way to stopping this practice.

I would like to share one personal experience. I am glad that when I was wounded in Vietnam I was not covered by a HMO. I am glad I was covered by the full faith and credit of the U.S. Government. I could see myself laying there after the grenade went off, trying to call an insurance bureaucrat, being told my conditions were not covered by what was in the plan and, second, I was not cost effective.

I am afraid more and more Americans are experiencing that, which is why I personally support the Patients' Bill of Rights. Many of my colleagues do as well.

I appreciate the opportunity to discuss this important issue in the Senate. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

AGRICULTURE APPROPRIATIONS

Mr. THOMAS. Mr. President, I rise today to talk for a few minutes about agriculture appropriations. That is the bill that is before us. It is one I believe is particularly important. But I want to talk, really, about the need for us to be doing the necessary work of the Congress to be moving forward with our appropriations bills to keep the Government operating. These are the things we have before us. We have to pass 13 bills before this Congress is adjourned, before the 30th of September. We have to do this to keep the operations of the Government moving, particularly in the area of agriculture where we are having one of the toughest times we have had in the economics of agriculture, all over the country. It has been very difficult. Of course the appropriations bill for agriculture will be there to help. There will be other things done as well, but this is the basic effort we will have to make.

I am very sorry to say our colleagues on the other side of the aisle have seen fit to delay this bill by using stalling tactics and bringing up unrelated amendments that have caused us not to be able to move forward. This is not a question of which issue is most important. We believe, with all of these issues, it is a question of an orderly process of moving forward to do the things that we have to do to accomplish our assignments.

I am sorry to say we are not able to do our job. It has been derailed by what I believe is simply an effort to bring partisan political issues to this debate which really do not have a place in this situation.

One, we need to move forward with the appropriations bills; there is no question about that. Two, we are dealing with patients' rights, which we have dealt with before and with which we continue to deal. It is not a question of being willing to do it. We have a Republican bill for patients' rights.

Are there some disagreements, some differences? Of course. We have been talking about this for more than a year. It is completely inappropriate to bring it up now and use it as a stalling tactic.

The unfortunate part is this is not the first time we have had it happen. We had it happen just 2 weeks ago when we were talking about Social Security, and we were unable to move forward with the lockbox legislation. We are finding an unusual amount of disruption in moving forward with the business of this Congress.

I commend the Subcommittee on Agriculture Appropriations for their hard work in putting this bill together. The lion's share of funding, $47 billion, is designated for mandatory programs. Domestic food programs, food stamps, and child nutrition programs account for more than half of the agriculture appropriations bill.

Certainly, the subcommittee faced difficult challenges in crafting this bill. Industry is struggling. The requests for financial assistance are escalating. Those types of things are very real, and we are prepared to deal with them. All we need to do is have the opportunity to move forward.

Unfortunately, the stalling tactics have stopped us. For those of us who are primarily from agricultural States, passage of this bill is fundamental to our economy and fundamental to those agricultural producers.

Recently, I heard several of my colleagues describe the financial problems in agriculture, and I do not disagree with any of them. We are feeling those in my State of Wyoming.

I am very frustrated we cannot take action on a bill because it has been bogged down. We should focus on this bill. We should get this one done. We can do it. There is general agreement on it. We can deal with the disagreements and move forward.

There are a number of programs in this agriculture bill that are particularly important. In addition to the domestic food programs, it contains funding for activities that are essential to an industry that employs more people in this country than any other industry, and that is agricultural producers. It has to do with land grant universities. It has to do with our rural citizens.

Of particular importance to Wyoming, a State where 50 percent of the State belongs to the Federal Government and is managed by the BLM and Forest Service, there are funds for predator management which is particularly important, even important in places like Hawaii. It has to do with decreasing livestock losses and crop losses. It has to do with research and extension.

We have the most efficient agriculture in the world because we have had land grant colleges and we have had the extension service. We have been able to produce more efficiently than anyone else. It is one of the largest exports we have.

There are conservation initiatives. Mr. President, $800 million is provided in this bill to assist farmers and ranchers to be stewards of the land, to be environmental stewards, to reduce soil erosion, to reduce nonpoint water pollution. The list of positive programs in this bill goes on and on.

For food safety, there is $638 million, an increase of $24 million over the fiscal year 1999 level.

Also in the bill are agricultural credit programs—the Presiding Officer is one of the experts with a background in agriculture and has worked on this problem—loan authorization for rural housing, and assistance for rural communities to develop waste disposal and solid waste management programs.

To brush this off and say we have other things to do, we should not undertake to deal with this agricultural appropriations, is distressing to me. I want us to move forward with it.

It is important, of course, not only to producers but to all of us as citizens of this country when we talk about safe food.

When we are finally able to debate the agriculture appropriations bill, there will be numerous amendments, as there should be. Some will be controversial which will further delay the passage of the bill.

We ought to also keep in mind that in order to go forward with the programs of this country, we need to move forward. We have about four appropriations bills that have been passed. Our goal should be to pass at least 11 of them by the end of July. We do not want to find ourselves in this business of having political problems that shut down the Government, as we did several years ago, and trying to blame each other.

Instead, we ought to move forward and do the things we ought to be doing. We have a process and we ought to move forward with it. There is much to be done, and I urge my colleagues to end their tactics of derailing and allow us to move forward on this very important spending bill.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, is the Senate still in morning business?

The PRESIDING OFFICER. The Senator is correct. The majority has 9 minutes and approximately 30 seconds. The minority has 5 minutes 5 seconds.

Mr. CRAIG. Mr. President, I join my colleague from Wyoming who has expressed a frustration that I think many of us in the Senate hold and that a growing number of Americans hold as to the current tactic being used by Democrats to block an ag appropriations bill or to force an issue that is separate and apart from it.

We do have a responsibility in the Senate and in the Congress, and that is to pass 13 appropriations bills on an annual basis to fund the workings of our Government. And the one before us today is agriculture.

There is some $60 billion to be spent in many of the areas outlined by the Senator from Wyoming. They are critical to all our States, not just the agricultural community but for those people who are less fortunate, for their very nutrition—nutrition for women, infants and children, the Food Stamp Program, certainly the School Lunch Program. All of those programs are embodied in this appropriations bill. A tactic to push what now rapidly appears to be a raw political point for the purpose of upcoming campaigns against the normal and necessary workings of our Government is a bit frustrating to me.

I have made that assumption at this moment. Let's assume that I am wrong, that clearly the other side is dedicated to a concern on the part of the average citizen as it relates to his or her health care, and in being so concerned they have offered a Kennedy bill that some call a Patients' Bill of Rights. If I take it at face value, it is a bit of a frustration, and in the next few moments let me express that.

Chairman PATRICK KENNEDY in the House, a Democrat, of the Congressional Campaign Committee, was recently quoted and the national media is saying that ''we have written off rural areas.'' He means that Democrats politically have written off rural areas.

Is it by coincidence the Senator from Massachusetts chooses the ag bill on which to place his political agenda? There seems to be a unique coincidence that PATRICK KENNEDY, Congressman KENNEDY on the other side, says, ''We have written off rural areas,'' and Senator KENNEDY on this side says, ''I'm going to attach it to the ag approps bill; I'll bring the ag bill down if I can't have my political agenda for a Patients' Bill of Rights.''

Let me look at the substance of what may be offered today, because it is my understanding that there may be an attempt, in an amendment, to offer a portion of the Kennedy health care mandates.

What would that do? That talks about what we now call medical necessities. It is a portion of the bill that I think offers the illusion of the patients being in control, by requiring health care plans and employers to pay for whatever care a physician recommends—without question. If that is what the physician recommends, without peer review or any observation of the total situation, it is paid for.

If that were the case, in today's medical climate, here is the reaction of the Barnitz Group. Who are they? They are an economic consulting firm that deals with health care and health care costs. They evaluate them. They make judgments as to how a given policy would affect the payment for health care for the individual.

Here is what they suggest this particular portion of the Kennedy bill would do. It could cost nearly $60 a year per covered household, per insured household. It could cost employers $180 a year per covered employee. In other words, it shoves the cost of health care up. Arguably, it might improve health care—I cannot debate that—by requiring that anything a doctor suggests gets funded. But it would cost more, or at least that is the observation.

In that cost—this is a marketplace we are dealing with out here—it could result in the loss of 191,000 jobs or it could result in the cancellation of coverage for 1.4 million Americans. That is a provision in an amendment that might be offered this afternoon.

Isn't it unique—I made some of this argument yesterday—that as we deal with ag appropriations, at a time when the chairman of the National Democratic Campaign Committee says, We write the rural areas off, that the Senator from Massachusetts would be offering a bill that would dramatically impact the uninsured by forcing more to be uninsured.

It just so happens that a very large number of the uninsured live in rural America. It just so happens, according to the Employees Benefit Research Institute, nearly half, or 43 percent, of all workers in agriculture, in forestry, and in the fishing sector of our economy have no health insurance. In other words, they have to provide for themselves. Now we are suggesting that we will drive the cost of insurance up for those who are uninsured instead of doing things that bring the cost of that insurance down so that the uninsured can find insurance more affordable.

Is this a coincidence or is there a relationship? I am not sure. But there is one thing that is for sure: The other side has decided to target ag appropriations with a bill that they think is extremely valuable politically. It is also an issue that we have come together on to say that there are some real needs and we are willing to address those needs in a bipartisan and timely fashion.

But let us allow the work of the Congress to go forward in the appropriations area. We will deal with health care, as we should deal with health care, but we cannot deal with it by driving people from it, creating a greater dependency on government programs, as inevitably will happen, as shown by every research institute that has looked at the Kennedy bill.

The Kennedy bill, without question, shoves possibly 2 million people out of insurance; I will be conservative and say at least 1 million, or 1.4 million by conservative estimates.

So let us get on with appropriating money for women, infants, and children for their nutritional needs, for the school lunch program, for food stamps, for ag research, for those things that are important to rural America.

I do not care if Congressman KENNEDY on the House side has written off rural America. This Senator will not write it off. We will pass an ag approps bill. We could do it today. We could finalize it this week and send a very important message to American agriculture that your work and your interests are important to us; that we will deal with you on a timely basis; that we will respond to your needs as best we can; and we will say to those less fortunate, we will feed you, and we will not use it as a political issue. We will do it in a right and responsible and timely way.

I hope our colleagues on the other side of the aisle can agree with that. It is what they ought to be agreeing with. There is enough politics to go around. Let's take politics out of the ag bill. They put it in with the injection of the Patients' Bill of Rights. They now have the opportunity to remove it.

Our leaders have been negotiating for some time to establish a time certain so we can handle this issue and all sides can debate its fairness, its equity, or its lack thereof. We will have a lot more detail. But obstructionist attitudes, blocking the activity of the Senate, gain very few of us anything. And the American public scratches its head and says: What are they doing back there? Why can't they do the work of the people? Pass the ag appropriations bill. Deal with health care in a timely fashion. Move the other appropriations bills and complete the work of Government.

That is what the American people expect of us. That is what they should expect of us. I hope the other side will ultimately agree with that.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

PATIENTS' BILL OF RIGHTS AND THE AGRICULTURE APPROPRIATIONS BILL

Mr. DORGAN. Mr. President, I take this opportunity to respond just a bit to some of the discussion that has occurred with respect to both the Patients' Bill of Rights and also the agriculture appropriations bill.

I just heard the discussion about the Kennedy position in the House and the Kennedy bill this and the Kennedy bill that. It is not what this issue is about. This is about a Patients' Bill of Rights. It is about the kind of health care the American people get when they show up with a disease or with an injury and need health care treatment, what kind of treatment do they get under current circumstances, and what kinds of protections are reasonable protections for them to expect in this system.

We have been pushing, for a long while, to try to get a Patients' Bill of Rights enacted by this Congress and by the previous Congress, but our efforts have not met with great success. I will tell you why. Because as health care has reorganized, and the largest insurance companies have herded people into HMOs, they have decided they do not want Congress to pass a Patients' Bill of Rights. They want to be making health care decisions in their insurance offices, often 1,000 miles away from a hospital room or a doctor's office. They do not want Congress, in any way, to pass a Patients' Bill of Rights. They have gotten enough folks here in this Congress, and here in this Senate, to decide that they would block it. And it has been blocked forever.

So it does not matter that it was the agriculture appropriations bill. It would have been any bill. The Democratic leader last week said to the majority leader: We intend to offer it. If you don't give us an agreement and an opportunity to decide that we're going to have a fair and free and open debate on the Patients' Bill of Rights, we're going to offer it.

We are going to pass the agriculture appropriations bill. Before we pass the agriculture appropriations bill, we are going to have a debate on responding to the emergency of the farm crisis. That is not in this bill at the present time. We tried to put it in the bill in the subcommittee and were defeated in our attempts to do so.

But we are going to have a debate that is much larger than just this bill. This bill deals with the funding of USDA programs, research, food stamps—a range of things—but it does not address the farm crisis that exists out there today that deals with income: The fact that farmers go to a grain elevator someplace and the grain trade decides that their food is not worth much, they do not get a fair price for it. Family farmers are in desperate trouble. We are going to debate that bill, but we are also going to debate a bill to try to respond to the farm crisis.

Mr. CRAIG. Will the Senator yield?

Mr. DORGAN. I will in a moment.

But let me point out, we are also going to debate the Patients' Bill of Rights. It is not going to be some gatekeeper who is going to tell us what our rights are on the floor of the Senate. Someone will stand over there and say: Well, we have reviewed this amendment. We think we'll allow you to offer that. We are not going to do that. That is not the way the Senate rules exist. The Senate rules exist in a way that says to every Senator: You have a right to offer amendments.

I understand that we are not in the majority and we do not set the agenda. The other side sets the agenda. But when they decide that the agenda will be to enhance all of their interests and shut off any debate of interests on the other side, they miss, in my judgment, the history of the Senate. That is not what this body is about.

We have rights. We intend to exercise those rights. We are going to talk about education. We are going to talk about health care. Yes, we are going to talk about the farm crisis. And we are going to insist on it. The debate at the moment is our insistence that we be able to have a fair opportunity to offer amendments with respect to our Patients' Bill of Rights, that we have a full debate on them, and to have them voted on. We insist on that.

I am happy to yield for a question.

Mr. CRAIG. Very briefly, I was a bit surprised last week when the Senator came to the floor and offered the Patients' Bill of Rights to the ag bill, because I know of his commitment to agriculture. I know of our joint belief about the farm crisis and the reality of it.

What this Senate has not done yet with the Department of Agriculture is shape the size and the scope of the farm crisis. We agree that crisis exists. You and I agree that it exists. The Presiding Officer comes from a farm State. We agree it exists. But we don't know the magnitude of it yet.

We have asked the President and the Secretary of Agriculture to engage with us. That is why it is not attached to this appropriations bill. We are not going to start legislating into a vacuum. We have to legislate because we are dealing with billions of dollars. And the Senator is right about farmers' and ranchers' incomes. That has to be done accurately.

But I am a bit confused. Being the farm State Senator that he is, he seems to be offering the Patients' Bill of Rights to this ag approps bill.

Mr. DORGAN. Reclaiming my time, I offered the amendment the other day on behalf of the Senate Democratic leader. It was an amendment that we said last week we would offer to any bill on the floor of the Senate. This is not going to delay the agriculture appropriations bill. The Senator from Idaho well knows that.

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

Mr. DORGAN. Mr. President, I ask unanimous consent for 10 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I will not object, if there is an additional 10 minutes for our side.

The PRESIDING OFFICER. Is that the Senator's request?

Mr. DORGAN. That is my request.

Mrs. BOXER. When the Senator finishes his thought, will he yield for a question?

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

Mr. DORGAN. Let me just make this point: We are going to pass an agriculture appropriations bill. The Senator from Idaho says: Well, we all agree there is a problem. We need to understand the scope and the depth.

I understand the scope and the depth of this problem. I sat in the Appropriations Committee conference in the basement of this building at midnight one night, when nobody said we needed to understand the scope and depth of the Defense Department issues. The Pentagon asked for $6 billion to prosecute the airstrikes needed to replenish their funds, and the Congress said: Well, you don't know what you are doing. We want to add another $6 billion. You didn't ask for enough money for the Pentagon. We demand that we give you $6 billion more.

Nobody was sitting around saying we need to understand the scope and the depth of that. They said: We demand you take $6 billion more money. That night, about 1 in the morning, Senator HARKIN and I said, if there is an extra $5 or $6 billion around, we demand a debate on the priority of its use. We have people going broke in farm country. We demand that some of it be used for that.

So we offered an amendment. By 14 to 14, we lost on a tie vote; I suppose, because some didn't know the scope and the depth. The Senator from Idaho cares a lot about family farming, as do I. It is mixing, in my judgment, a concoction of bad meals here to suggest that by adding a Patients' Bill of Rights to this particular bill it does something to agriculture or somebody isn't committed to agriculture. That is all fog.

We wouldn't be here talking about this had someone, some long while ago, said, yes, we will give you your rights on the floor of the Senate to bring a bill to the floor and to offer amendments. Yet we have been systematically denied that opportunity. That is why, whether it is this bill or any other bill, you are going to find these kinds of amendments.

As soon as those who are in charge allow the Senate to operate the way it ought to operate and function, you will not see these amendments.

In my judgment, we are here on the Patients' Bill of Rights because we have been told: We don't want you to be able to offer your amendments on the Patients' Bill of Rights dealing with scope, dealing with emergency room treatment, and so on. That is why we are here.

Mrs. BOXER. Will the Senator yield?

Mr. DORGAN. I am happy to.

Mrs. BOXER. I find it quite interesting. I ask my friend, do the people who live in farm country need health insurance? Do the people who live in farm country have problems if they need to go to emergency rooms? Do the people in farm country have problems when their child needs a specialist?

I wonder whether or not we segment things too much. I think people who live in farm country also need health care. If we could reach agreement so we could offer our amendments and give the people in farm country and in suburbia and in urban America the right to decent health care—my friend from Idaho said: Oh, my God, what you are doing will cost so much. We have a letter from GAO. It is $2 a person a month to get decent health care in this country.

I ask my friend, because he is such a stalwart supporter of family farmers, do they not have a problem as well as all the rest of us?

Mr. DORGAN. The answer to that is, of course, they do. This issue is not an issue of urban versus rural. The issue of health care and medical treatment exists all around this country. We have talked on the floor at great length about the specifics of it.

Yesterday I told the story—I will tell it again, because it describes something more than a Patients' Bill of Rights—does someone who was taken a 40-foot fall and has been helicoptered to a hospital and thrown into an emergency room unconscious with fractured bones in three parts of her body, does that person have a right to emergency room treatment? Or does the HMO have a right to say: We won't cover your emergency room cost because you didn't get prior approval to get to an emergency room?

How do you get prior approval when you are unconscious on a gurney being wheeled in from a helicopter, medivac'ed from the mountains where you were hiking? Does a patient in this country who has health care coverage have a right to expect emergency room treatment in those circumstances? Of course.

That is what the Patients' Bill of Rights is about. Not just that, but the right to keep the same doctor, and cancer treatment, a whole series of issues like that. Does that affect rural America? Of course, it does.

But I want to go back to the point made by my colleague. The agriculture appropriations bill does not come to the floor of the Senate with an ag crisis response because it was not deemed appropriate by those who decided they didn't want to put it there. We are going to try to put it there at some point. I hope perhaps we can do that on a bipartisan basis.

I know the scope and the depth of the problem in rural America. The problem is that it costs about $4.50 to produce a bushel of wheat. They drive to the country elevator and the grain trade says wheat is only worth $2.70 a bushel. That is a quick way to go broke. We have a lot of families who are experiencing broken dreams of being able to continue in family farming because the hungry world and the grain trade of the hungry world have said: Your food doesn't have value.

It is not in the bill now, so don't be in such a hurry about the underlying bill. We need to add to the underlying bill the farm crisis package that Senator HARKIN and others are going to push. In the meantime, we will insist on our rights to try to offer a Patients' Bill of Rights on the floor of the Senate.

Mrs. BOXER. One final question. The Senator from Idaho chastised my friend and said: You are from farm country, yet you are supporting a Patients' Bill of Rights and want that debate now, when the underlying ag bill is so important. What my friend is saying is that this bill, the underlying bill, comes up short for America's farmers.

Mr. DORGAN. Absolutely.

Mrs. BOXER. I watched at 1 in the morning. I saw the Senator, with Senator HARKIN, offer a package that addresses the emergency needs of America's family farmers. It was turned down pretty much on a partisan vote. Is that correct?

Mr. DORGAN. It was a partisan vote except for one.

Mrs. BOXER. So pretty much a partisan vote.

We basically had the Republicans—who are out here saying, oh, bring on this bill, our poor family farmers—voting down an emergency package for those very same farmers and fighting us so those farmers and everyone else in America can't get decent health care.

Lastly, I wonder if my friend sees a connection, because I am thinking about it. I saw my friend from Idaho come out and, instead of debating us on the bill, scare America by saying: Oh, my God, with this Patients' Bill of Rights, 1 million, 2 million people are going to lose their insurance. It sounds like scare tactics.

It reminded me a little bit of the debate we had on the juvenile justice bill, when all we were saying on our side of the aisle was that we wanted to do background checks on criminals and mentally disturbed people before they get a weapon. They said: Oh, my God, they are trying to take everyone's guns away.

America knows that is not the case. When you fight for sensible things, you hear scare tactics from the other side.

I wonder if my friend notices this kind of desperation deal going on, every time we try to do something, of trying to scare the people of this country.

Mr. DORGAN. The only reason I stood up to respond is because there is information from the GAO and elsewhere that suggests that the Patients' Bill of Rights may actually encourage more health care coverage. You may have more people buying health insurance understanding that in their HMO they have rights. They have the right to demand information on all the potential treatments available to them,

not just the cheapest, for example. They might well believe that is a pretty good thing.

The GAO and others say this may well increase the coverage. The assumption that a couple million people will opt out, I do not believe that.

The second thing is, we are going to need to solve the farm problem with folks around here from both sides of the political aisle. The Presiding Officer is from Kansas, a big State in dealing with the farm issue. I would never suggest that somehow he doesn't care about farmers. I have served with him in the House and the Senate and know too well how much he cares about family farmers. We need, at some point, to get together on a solution to deal with the farm crisis. I understand that. I have not said—and I could, I suppose—all right, you took $6 billion that you created someplace and gave it to defense.

So my contention is this: You gave the Defense Department money they didn't ask for that should have gone to farmers. I could come out here and make that case, I suppose. But I am not doing that. I have said I thought if there was $6 billion, we should have a debate about the priorities. We didn't. The Defense Department got it, and I am sure they will use it for security needs, readiness, and other things.

My point is, on the underlying bill, I don't think we should be too quick to pass it, because it doesn't have the fundamental resources to deal with the farm crisis.

In any event, last week the Democratic leader informed the majority leader: If you don't give us the opportunity that we insist upon as Senators, to bring these issues to the floor, such as the Patients' Bill of Rights, then we intend to offer it as an amendment to whatever vehicle is on the floor. Anybody who is surprised by that simply wasn't awake last week.

So we will get through this. I think the way we will do it is to have a full debate on the Patients' Bill of Rights at some point, with the ability to offer amendments, as we should, and I hope we will also have a robust debate on the issue of the farm crisis response.

The PRESIDING OFFICER. The time requested by the Senator has expired.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that the period for morning business be extended until 3 p.m. and that the time be equally divided between the minority and majority.

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

PATIENTS' BILL OF RIGHTS

Mr. GREGG. Mr. President, I think it is appropriate to respond to some of the commentary from the other side about the Patients' Bill of Rights—the Republican plan versus the Kennedy bill, the proposal that the other side has put forth.

The American public should know and recognize that a majority in this Congress is for moving on an effective proposal and for addressing the needs of the American citizens relative to dealing with HMOs, and that is the Republican Patients' Bill of Rights. It is a very good package of ideas put together after a long and serious amount of consideration. It came out of the committee of jurisdiction with a majority vote, is now on the floor, and has received a majority vote in the Senate. It would significantly improve the situation of patients as they deal with doctors and HMOs across this country.

I think, however, that it also ought to be noted on the other side of the coin that what Senator KENNEDY's proposal does is to continue the Clinton health care plan that we saw about 5 years ago—I guess it was 5 years ago now—''Hillary-Care,'' as it came to be known. This is sort of the daughter of ''Hillary-Care'' or son of ''Hillary-Care,'' as put forth by the Senator from Massachusetts. Essentially, if you are going to be honest about the practical effect of the proposal of the Senator from Massachusetts, it is to increase the premiums for private health insurance in this country by at least 4 percent potentially; other estimates have been as high as 6 percent.

When you start raising the premiums for health insurance—especially on self-insured individuals—the impact of that is that people drop out of the health care insurance system. Why is that? Because they can't afford it. If you are a small business of five or six employees, if you are running a restaurant, or if you are running an auto shop or a small software company, and your costs go up 4 percent on your health care premium, that can amount to a significant cost increase, and in many instances that is going to be the difference between making it and not making it in some of these small companies. So you have a situation where people drop the insurance.

The Congressional Budget Office has estimated that the practical effect of the Kennedy health care plan will be that well over 1 million people will drop their health insurance. Why is this important? Why does this tie into ''Hillary-Care''? Because, if you will recall, back in the days when we were debating the issues of ''Hillary-Care,'' the basic proposal was to create a nationalized system where the Federal Government would come in and take over all insurance carriers in this country, for all intents and purposes, with the logic behind that being that there were too many uninsured people in the health market to date, too many Americans simply did not have health care insurance, and therefore we needed to have ''Hillary-Care.''

Nationalization of the health care industry was proposed at that time, and the Kennedy bill was introduced by Senator KENNEDY on behalf the First Lady, and the proposal was, let's nationalize the system so all the uninsured in this country will have a system of insurance.

Of course, it failed miserably, because it was incredibly complex, it was incredibly bureaucratic, and it was extraordinarily expensive for the American taxpayer. The cost increase and the tax burden for the American taxpayer would have far exceeded any savings in premium that would have occurred, and the cost in bureaucracy and the loss of effectiveness in the administration of health care in this country would have had a major impact on the quality of health care.

So out of common sense, good sense, and good politics, the program was rejected out of hand, and in fact it never came to a vote in the Senate because, quite honestly, a majority on the other side of the aisle was embarrassed by the proposal and they decided to walk away from it.

What we have here is essentially is an extension of that, because what we have is a back-door proposal to health care. Unhappy with the fact that they were unable to nationalize the health care system, in order to cover those folks who do not have enough health insurance, they have now decided, by bits and pieces, through small slices—this one is a very large slice but through smaller slices of the pie—to slowly uninsure Americans. So there is such a large pool of uninsured Americans that we will have to come back to a ''Hillary-Care'' system so there will be justification for nationalization of the health insurance industry, because there will be all these uninsured people out there who have been created and, because of a lack of insurance, we will have to create legislation.

Because of all of these different actions taken—proposals such as we are seeing today on ''Kennedy–Care,'' which will create another 1 million-plus people who are uninsured—next year we will have another proposal which will create another group of uninsured and there will be another proposal to increase the cost of insurance. And they will add something else to private insurance costs—some new benefit, or initiative—that will have all sorts of trappings of nice political sounds so that they will need to raise the cost of insurance premiums. So more people will step off of insurance, and more and more people will end up being uninsured over a period of time, and we will end up with just more people becoming uninsured as we continue

down the road of adopting these initiatives which are put forward by the Senator from Massachusetts.

I will tell you, I think the basic game plan here is to create such a pool of uninsured people in this country that we have to turn the corner and come all the way back so that the Senator from Massachusetts and the First Lady can come to us again and say, now, we really need to nationalize the health care system because we have all of these uninsured people.

I think there is a bit of a cynical game plan behind the Democratic proposal, the Kennedy plan. Maybe I am being too suspicious, but, as a practical matter, I think I am being accurate and I am observing what the factual events will be.

The fact is that because of the premium costs that will increase, which are going to be driven by ''Kennedy–Care,'' as proposed by this bill, we will end up with more people uninsured, and the more people that become uninsured in this country, the greater the demand from the other side of the aisle will be for a nationalized system of health care.

I will tell you, if a nationalized system of health care was a bad idea 5 years ago, it would be a bad idea today, and it will be an idea 5 years from now when we hear from the other side of the aisle how important it is because so many people had to drop off the health care system, because they increased the premiums on the health care system by passing their proposed Kennedy health care bill.

I just wanted to make some of those comments in response to some of the comments from the other side.

I think it is ironic that we are holding up agriculture appropriations over the issue of the Patients' Bill of Rights. I have never been a great fan of the way we fund agriculture in this country, as the Senator in the Chair knows. We have been discussing this issue for a number of years both in the House and in the Senate. I recognize that the farmers in this country are a critical part of our economy and that this agricultural appropriations bill is the reasonable, responsible way of addressing those farmers' needs.

We have heard about the crisis in the farm community from the other side of the aisle ad nauseam now for 3 months, and suddenly we are about to pass the agriculture appropriations bill, and on the other side of the aisle Senators from farm States come forward and say, no, we can't do the agriculture appropriations bill.

As someone who is not from a farm-community State—I have a few farmers, but they are not the dominant culture in New Hampshire. We wish they were. They are certainly wonderful, hard-working people. But as somebody who is not from a farm-culture State, I have to scratch my head and say, is the crisis real? If these folks on the other side of the aisle, who for months have been telling us about the severe crisis in farm country, come forward when we are about to do the agriculture appropriations bill and delay it for weeks and weeks, and potentially even months, I ask, is the crisis real in farm country? Should I, when we get another supplemental appropriations bill which has another few billion dollars for the farm crisis, take that seriously, or are we being ''gamed''?

I think they put into serious jeopardy the reasonable arguments that have been put forward from our side of the aisle by the Senator from Kansas and the Senator from Montana, who understand the farm issue and who make good arguments on behalf of the farm issue. Those folks who are credible on the farm issue on our side of the aisle are having their credibility undercut by this type of action from the other side of the aisle, which really plays games with the farm crisis and really dilutes the arguments on the farm crisis when they are willing to delay the funding of the farm bill for what is clearly a political initiative undertaken for the purposes of trying to generate a higher polling rate than some poll taken in some political election.

To me, there is a fair amount of cynicism in this Senate today, and most of it is being promoted by the actions brought forward by Members on the other side of the aisle.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERTS. 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. ROBERTS. Mr. President, there is strong bipartisan support to address the problem of unequal quorum call time charges. We simply cannot let this injustice go on. Let us take action. So to rectify this situation, I now suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. ASHCROFT. 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. ASHCROFT. Mr. President, may I inquire about the state of business?

The PRESIDING OFFICER. The Senator may speak for 25 minutes. We are still in morning business.

AGRICULTURE APPROPRIATIONS

Mr. ASHCROFT. Mr. President, I yield myself as much of the 25 minutes as may be necessary to make my point.

I rise today with substantial concern and significant frustration. The pending business before the Senate is the agriculture appropriations bill. But for the second day in a row, it appears that we will not work on this important legislation. Those on the other side of the aisle have said they will not let any legislative work get done until they are able to have, apparently, an unlimited debate on a so-called Bill of Rights for health care patients.

Those on the other side claim that they must have a debate on their bill, but that is not the point. What they are really doing is thwarting this body, the Senate, in its constitutional duty to pass appropriations bills so that we can make sure that important components of our Government remain viable and continue to do their job.

The agriculture appropriation bill is a very important measure, not just in one State in America but in every State in America. Let me remind all Senators that our responsibility to pass appropriations bills is defined by the U.S. Constitution, which requires ''appropriations made by law''—that means we have to pass them—''prior to the expenditure of any money from the Federal Treasury.'' That is article I, section 9.

I see nothing in my reading of the Constitution that says the Senate must have unlimited debate on some other issue of interest or that the Senate even has the authority to speak on all the issues between a patient and a doctor.

Granted, we have until October 1 to conclude the appropriations process. That seems like a long way off, summer having just started. But I am not sure exactly why we would be dragging our feet now, because I am sure I do not have to remind anybody of what happened last October when we did not do our work early. Congress did not complete its job on time, and the American people are the ones who ended up paying for our irresponsibility with a $20 billion-some so-called emergency appropriation that came when, instead of constitutionally addressing our responsibility on appropriations, the President and a few Members of this body combined to invade the Social Security trust fund for about $22 billion in emergency spending.

Members on both sides of the aisle complained bitterly for months about the process and the outcome. Members from both sides pledged to work together to make sure that history did not repeat itself this year.

I commend the leadership and the Appropriations Committee for the wonderful start that has been made on the appropriations bills. It is June 24, and the Senate has passed four appropriations bills and has five more ready for the floor. If those on the other side ever allow us to return to our duties, we can do the job and do it well.

Let me caution all of us that summer will pass quickly. We should not put off our responsibilities. We are sent here by our constituents to do our jobs for

them, not to sit in endless quorum calls and have days of morning business because some group wants a special interest measure to be addressed and demands unlimited debate without any end in sight.

In addition, I am concerned that certain Senators are holding this agriculture appropriations bill hostage at a time when many in our farm communities are undergoing great hardship. America may be in the midst of great prosperity, but it is not a prosperity that has reached the farms. Many of our farmers are working harder and harder, and times are tougher and tougher, not better and better.

Just a few months ago, we passed an emergency supplemental appropriations bill that dealt, in part, with the crisis in the agriculture sector. Members on both sides of the aisle agree that farm families are not enjoying the prosperity that other Americans have recently been enjoying. So this is not the time for the Senate to deal another blow to those who are already hurting. It is not the time for the Senate to kick agriculture while it is down. We need to stand up for our farmers, and we need to stand up for our ranchers, not to try to make political hay out of an issue unrelated to agriculture on the agriculture appropriations bill.

Since we are not on the agriculture appropriations bill, and I am not sure when we will return to it, I want to spend a few minutes talking about an amendment I plan to offer to the agriculture appropriations bill. It is an amendment that will help farmers by opening, and keeping open, foreign markets to their goods.

I want to discuss a commitment the Congress made to America's farmers and ranchers when we passed the Freedom to Farm bill 3 years ago. Then, we promised that as the Government reduced farmer price support programs, we would ensure that farmers had ascending opportunities to be competitive in international markets. As we withdrew the Government involvement in farming, we would expand the opportunities for farmers in markets overseas. This was a promise to open new markets. However, in order to do so, we had to not only remove foreign barriers to U.S. farmers and ranchers, we needed to remove our own barriers to U.S. exports of farm goods. Removing U.S. barriers means agricultural sanctions reform, which is important to America's farmers and ranchers, and especially important to me as a Member who represents a farm State.

For more than 200 years, farmers and ranchers have been vital to the growth and the economic prosperity of the United States. We were an export country, agriculturally, from the beginning. We always responded to challenges in our competitive free market system. I believe the United States has the best farmers in the world—first class in production, processing, marketing, both abroad and at home. However, we are now seeing the effects of depressed farm prices across the Nation. No doubt, we need to face the crisis head on, but while we are passing multiple spending bills this year, there are some basic questions we should answer:

Have we done everything we can to allow farmers to be independent, to allow farmers to have the freedom to compete, to give them opportunities and not just send them money, to consider the long-term well-being of family farms? In the absence of us fulfilling our promise to open markets, is our spending merely keeping farms solvent this year only to be lost in the future?

We have had 3 years to answer these questions, and the answer to all of them is still a resounding no.

The administration and the Congress have many words about open markets and more export opportunities, but our actions have been to bog ourselves down with turf battles and procedural maneuvering. How can we explain this to the agricultural community across America? How can we tell our family farmers in the Midwest, in Missouri, in the Far West, or in the East and the South, that we really want to give them increasing opportunity in world markets, and then thwart our own goal with institutional barricades, and tell them we want to sell abroad but forbid them to sell abroad by having embargoes of our own products, sanctions against countries that are unnecessary and counterproductive, so it makes it impossible for them to have the same markets they would otherwise enjoy?

I believe we must enact reforms that give farmers and ranchers the opportunity both to be productive and to be competitive. Such reforms will strengthen farm families. I believe these policies are ones rooted in the American tradition of increasing opportunity.

One-hundred-plus years ago, my grandfather, John M. ''Cap''—they called him Cap—Larsen left northern Norway as a 13-year-old to sail the high seas. He changed his name and, with all his earthly endowment contained in a duffel bag, he switched ships and boarded one destined for the United States as a crew member. He could not speak the language, but he knew that America was a place of ascending opportunity, and he came here.

We have a responsibility to America to keep our opportunity growing. We can't keep our opportunity growing if we are closing the markets in which American farmers can sell their produce. So, clearly, our opportunity is to say to American farmers—and I would like to say to Missouri farmers—we want you to have an opportunity to sell your goods in as many places as is possible.

The agricultural industry is the backbone of my State's economy, accounting for more than $4 billion annually.

While the United States can produce more food than any other country, we account for only 5 percent of the world's consuming population. That leaves 95 percent of the world's consumers outside of our borders. This is an astounding statistic when we put it in terms of creating opportunities. Exports account for 30 percent of the gross cash receipts for America's farmers, and nearly 40 percent of all U.S. agricultural production is exported. However, with the consuming capacity of the world largely outside our borders, our farmers and ranchers need increasing access to foreign demand.

Farmers and ranchers tell me repeatedly that they want more of our help abroad and less of our interference on their farms. They need us to open foreign markets, and they need us to keep those markets open.

Our first task—opening foreign markets—looms before us like a brick barricade. With the same will and authority of President Reagan before the Berlin Wall—when he said, ''Mr. Gorbachev, tear down this wall''—we must face head-on the barricades before our farmers and ranchers. It is not an easy task, but then again neither was dismantling the Evil Empire.

The Europeans are standing on their massive wall of protectionism built across the trail of free trade and simply rejecting U.S. beef. For example, May 13 was the last date for them, according to the orders from the World Trade Organization, in which they had exhausted every appeal. That was the last day for them to finally say they will accept U.S. beef. They refused to do so.

We have to blaze a trail. The Europeans cannot be allowed to make a mockery of our competitive spirit, especially that of our cattle ranchers.

Our second task—keeping markets open—is why my colleagues and I are here on the floor today. The picture of ascending opportunity for farmers is incomplete without a view of foreign markets unimpaired by U.S. embargoes.

We have gone from the idea of trade barriers on the part of the Europeans to embargoes on the part of the United States. We keep a number of our farm products from being sold around the world, and unnecessarily.

I might add that using food and medicine as weapons creates a cumbersome trail, an environment of descending opportunities. Agricultural embargoes amount to a denial of much-needed food and medicine for the innocent people of foreign lands with whom we have no quarrel and to a unilateral disarmament of the farmers in a competitive world market. We have simply pulled our farmers out of competition in a number of areas where we need not. We must not use our farmers or innocent people as pawns of diplomacy or allow our embargoes merely to add bricks to the walls of protectionism that other countries have erected.

Our farmers have jumped through all the hoops of foreign trade barriers and redtape to establish trusted relationships with foreign buyers. That has

happened. And the U.S. Government should be extremely cautious about interrupting their sales by imposing trade sanctions.

Many farmers' livelihoods depend on sales overseas. For instance, in the mid-1990s, more than one-fourth of Missouri's farm sales were made to overseas consumers. But because the U.S. Government has sanctioned agricultural trade, there has been an estimated $1.2 billion annual decline in the U.S. economy during these years.

In other words, our whole country suffered to the tune of an annual decline of $1.2 billion as a result of agricultural embargoes. This translates into 7,600 fewer U.S. jobs. Even one-third of those 7,600 jobs lost translates into the loss of a family farm. So we have lost about 2,500 family farmers in each of the last several years because of agricultural embargoes.

Sometimes I think we need to ask ourselves: Who are we hurting? We think we are hurting other countries that go into the world market and buy from other suppliers. I don't think we are hurting them badly—perhaps not nearly as badly as we hurt America when we lose 2,500 family farms a year. That is 50 family farms a week. That is a tradition that they no longer pass on—a tradition of resourcefulness, a tradition of independence, a tradition of providing food and fiber to a hungry world.

Additionally, this debate on agricultural sanctions reform is broader than the effect sanctions have on America's farmers. In addition to hurting our sales and damaging our farmers' credibility as suppliers, embargoes deny food and medicine to those who need it most—citizens who have to live under the rule of some of those who are most oppressed.

Also, the United States, by imposing unilateral agricultural embargoes, can actually end up benefiting instead of punishing foreign tyrants. For instance, one of the little-known aspects of the Soviet grain embargo concerns how much money the Soviets saved as a direct result of the United States ''punishing'' them with an embargo. There may be a number of people who do not remember the U.S. grain embargo with the Soviet Union in the late 1970s, I believe it was. We thought, well, they are not doing things the way we want them to, so we will make it tough on the Soviets. We will embargo exports from the United States to the Soviet Union. The Soviet Union, when we said we would no longer trade with them, was able to cancel 17 million tons of relatively high-priced purchases from the United States. So they wouldn't buy these quality well-produced items from American agriculture. They replaced those purchases they were going to get from American agriculture with purchases from other countries. What do you know? They even bought from other countries at lower prices.

The U.S. embargo unilaterally canceled private contracts and drove the world market prices down by sending our grain into the world market, and at the same time it was estimated that the embargo saved the Soviets about $250 million. In an effort to hurt the Soviets, we saved them $250 million, and we cost the American agricultural community 17 million tons of agricultural sales to a market for which the contracts had already been signed.

That is not exactly the intended result. But all too frequently when we keep our farmers from selling to countries overseas as a result of these sanctions and embargoes, we end up hurting ourselves, and not the other country. We end up destroying family farms in America—not something in the other jurisdiction. We end up making it tough on American farmers.

I agree that in some instances the United States needs to use trade sanctions. They can be a foundation for the protection of our national security interests and to the promotion of our foreign policy goals. However, because I believe agriculture and medicine should rarely be used as a unilateral weapon—they aren't things that really are going to win wars for us generally, especially if the agriculture production that we cut off is really replaced just by production brought on line in other cultures—I think we should be very serious about any effort to use agriculture or medicine as a weapon.

I think both the Congress and the administration need to consider it very carefully, and that they ought to combine their authority to lift most of the remaining restrictions on American farmers and ranchers. We ought to give them a chance to sell to a hungry world.

That is why a number of Senators and I—Senator HAGEL, Senator BOXER, Senator KERREY, Senator ROBERTS, and Senator DODD—are working on this amendment which I would otherwise be offering if we weren't in morning business. I hope many other Senators will join.

We want to be involved in discussing what is good for America—yes—what is good for our farm communities, and our home States, and discuss why sanctions, which really hurt us more than they hurt the other fellow, are really counterproductive to American farmers. If there are costs to be borne in our culture as a result of our antagonism with others, those costs should not be focused solely on the agricultural communities in a way that makes our farmers less competitive, because we narrow in a significant way the markets that they would otherwise have in the world marketplace.

The theme of the amendment I would have proposed is that sanctions should rarely, if ever, be imposed against food or medicine, and, if they need to be imposed, both Congress and the President should be involved. Our farms should not be sanctioned without serious deliberation about the effects. If food and medicine for the world is important—and the Food and Medicine for the World Act should be passed—it is this: That in order to use agriculture or medicine as a part of a sanctions regime, there would have to be an agreement between the administration and Congress.

Let me make this clear. We don't want to tie the hands of the President. We merely want to require the President and Congress to shake hands in agreement, if we are going to ever use food and medicine as a part of a sanctions or an embargo regime.

That is the thrust of the amendment, which I am proposing; and here is how it would happen. Under the amendment, agriculture is carved out of a sanctions package when any new sanctions are imposed. The President would still be able to use his broad sanctions authority, but agriculture and medicine would be treated a little differently.

When any new unilateral sanction is announced by the President, the sanctions he imposes may go into effect, except they would not affect agriculture or medicine unless the President submits a report to the Congress asking the sanctions include agriculture, and Congress approves, by joint resolution on expedited review, his request to sanction agriculture and/or medicine.

Additionally, sanctions on agriculture and medicine that are put in place by the new procedure would sunset after 2 years unless the President made a new request for sanctions and the Congress extended that particular item.

There are certain instances in which the President would not have to get approval from Congress to include agriculture and medicine in a sanctions regime. First of all, we want to make sure we are not aiding terrorists in any way. It is one thing for terrorists to use their money to buy our food. At least they aren't using their money to buy bombs and weapons. However, we need to make sure we don't somehow subsidize our sales to terrorists. That is why we have included an exception in the bill for terrorist governments. In no instance would we extend credit or credit guarantees to governments of state-sponsored terrorism. This is an important point to me: We are not going to be giving tax dollars of the American people to terrorist governments so they can buy our food and, having gotten credit from us, then buy munitions to carry out their terrorism. That is not possible under this act.

Second, we will not give terrorists any dual-use items. This sanctions amendment specifically carves out items on the commerce control list, items on the munitions list, and any item that would be used to manufacture chemical or biological weapons. This is the strongest belt-and-suspenders approach possible. We honor the commerce control list, the munitions list, and we would make sure there were no credit extensions to terrorist regimes.

Finally, if Congress has declared war, the President would be able to include

agriculture and medicine in a sanctions regime against the country of which we are at war. If we have declared war, obviously we are not going to be aiding or trading with the enemy in any way. Congress would not have to again provide ratification of the President's sanctions in that setting.

My colleagues and I are genuinely of the belief that this bill is in the best interests of American agriculture. It is the best approach to agricultural sanctions reform. We do not have to balance national security interests versus farm exports because we do not limit the ability of the United States to protect its national security interests. When the national interests are clearly at stake, the Congress and the President should be able to agree.

For the most part, I do not think we should use items such as wheat and soybeans as weapons for foreign policy. However, if the need ever arises to embargo agriculture, Congress and the administration can impose sanctions that would affect the flow of our agricultural goods to nations abroad; we just need to have a deliberative process set in place, and we need to ensure that both the President and the Congress are in agreement.

The food and medicine for the world amendment is fair and it is constitutional. The food and medicine for the world amendment, which is the amendment I would propose today if we were actually on the bill, sends a message to overseas customers that U.S. farmers and ranchers will be reliable, that people can depend on our produce and our production, and we will honor our contracts.

The food and medicine for the world amendment also sends a message to U.S. farmers and ranchers. It says we will not tamper with their capacity to have good, open markets around the world without due deliberation. Also, it begins to fulfill a definite promise made to our farmers and ranchers a little over 3 years ago.

Not only would we be assuring U.S. farmers and ranchers, I think we would be sending a signal to poor citizens around the world who need the food, the produce, the fiber that we produce, the medicines that we have, that we have a heart in America that respects their heart, that they are not subscribing to tyranny because they have to live under it, and that we are not unwilling to provide needs to individuals as long as our provision of needs doesn't sustain the oppression of individuals.

It is time to enact a policy that supports our farmers' efforts to reach their competitive potential internationally, a policy that makes food and medicine available around the world. We must create ''ascending'' opportunity for our farm families. This measure would provide for that. It also understands that there are times when we need to curtail the flow of our goods overseas, but it requires both the administration and the Congress to come to an agreement in order for that to happen.

I believe the food and medicine amendment which I would be proposing, were those on the other side of the aisle not thwarting our capacity to move forward in addressing the pressing needs of agriculture today, is essential to the well-being of the farmers and ranchers in America, also essential to our well-being and our reputation as a reliable producer and provider of food, fiber, and medicine around the world.

I ask unanimous consent two pertinent letters be printed in the RECORD.

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

JUNE 23, 1999.

Hon. JOHN D. ASHCROFT,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ASHCROFT: We are pleased that you and other supporters of sanctions reform are preparing to offer an amendment to the Agriculture Appropriations bill today.

The amendment, ''Food and Medicine for the World,'' would exempt agricultural and medical products from unilateral sanctions unless the President submits a report to Congress asking that the sanctions include agriculture and Congress approves his request by joint resolution. If a sanction is imposed on agricultural exports following joint resolution approval, it would sunset in two years unless the process is repeated at that time.

We strongly support this amendment and believe it would result in true sanctions reform for U.S. farmers and ranchers. As you know, unilateral sanctions inflicted the most damage on U.S. producers. They often result in no change in the target country as these nations simply source their agricultural purchases from our competitors. The end result is that our producers are branded unreliable suppliers and lose access to important markets for decades to come. This amendment would begin to restore the U.S. reputation as a reliable supplier of agricultural products.

Access to export markets is more important than ever given the decline in projected exports for 1999 and depressed commodity prices worldwide. We endorse your efforts to keep our export markets open.

American Cotton Shippers Association; American Farm Bureau Federation; American Soybean Association; American Vintners Association; Animal Health Institute; Archer Daniels Midland Company; Biotechnology Industry Organization; Cargill; Central Soya Company, Inc.; Cerestar USA; ConAgra, Inc.; Continental Grain Company; Corn Refiners Association; Farmland Industries, Inc.; Florida Phosphate Council; Independent Community Bankers of America.

National Association of Animal Breeders; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Beef Association; National Chicken Council; National Corn Growers Association; National Council of Farmer Cooperatives; National Food Processors Association; National Grain Sorghum Producers; National Grange; National Oilseed Processors Association; National Pork Producers Council; National Renderers Association; North American Millers' Association; Philip Morris Companies Inc.; Sunkist; USA Rice Federation; United Egg Association; United Egg Producers; U.S. Wheat Associates, Inc.

MISSOURI FARM BUREAU FEDERATION,
Jefferson City, MO, June 17, 1999.

Hon. JOHN ASHCROFT,
U.S. Senate,
Washington, DC.

DEAR SENATOR ASHCROFT: Missouri Farm Bureau, the state's largest general farm organization, strongly supports the Ashcroft-Hagel-Baucus-Kerrey amendment that provides U.S. agricultural producers with much-needed protection from unilateral trade sanctions. Furthermore, I commend the sponsors of the amendment for recognizing the damage inflicted upon our nation's farmers when food is used as a weapon.

This amendment is especially important given the current weakness of the U.S. farm economy. Ill-conceived trade policy that prevents U.S. agricultural exports not only has financial ramifications for our farmers but also provides new market opportunities for our competitors.

This amendment exempts agriculture from unilateral trade sanctions, yet recognizes there may be instances where such drastic action is warranted. When a situation arises where the President feels it is necessary to include agriculture, the amendment provides a procedure to obtain this authority.

Unilateral trade sanctions have proven to be a tool best to avoid. I commend your efforts and urge other Senators to support this important amendment.

Sincerely,

CHARLES E. KRUSE,
President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business, and I also ask unanimous consent that Senator DORGAN be allowed to follow me when I have finished.

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

PATIENTS' BILL OF RIGHTS EMERGENCY SERVICES PROVISIONS

Mr. BAUCUS. Mr. President, I join my Democratic colleagues in their fight to have an open and unrestricted debate on the Patients' Bill of Rights. Over the past several days, we have heard the Republican leadership say they are interested in having an up-or-down vote on their bill, followed by a vote on the Democratic bill. We all know this is not how the Senate is supposed to work. We are a deliberative body, and as such, we should have debate on important issues that affect the lives of Americans.

The Patients' Bill of Rights addresses one of the most important issues the Senate can debate: the rights of Americans to have access to quality health care.

Our health care system essentially relies on three important factors: First is access to health care; second is the quality of our health care; and third is

cost controls, that is, the cost of our health care.

The problem is it is extremely difficult, if not impossible, to have the best in all three areas. If we concentrate on two of the areas, that usually results in sacrifices in the third area. The whole reason we are trying to have this debate is that this trio of access, of quality, and of cost control has shifted out of balance. Our market-driven health care system has become too focused on controlling costs and protecting corporate profits. Although predictable, this, unfortunately, has led to sacrifices in access to health care and quality health care.

It is important to point out we do need to be concerned about cost control in our health care system, no doubt about it. In fact, managed care has done many of the things we hoped it would do. For example, it has improved the efficiency of health care delivery, it has slowed down the growth in health care costs, and it has enhanced the collection of data to assess the quality of care. It has done all that, and that is good.

The message of this debate is not that managed care is the enemy. As I said, managed care has done a lot of things which are very important. This debate, rather, is about restoring a balance in our health care system.

We certainly could design a health care system that is only concerned about money, but that would miss the point. Unfortunately, though, we are headed in that direction. We need to stop and ask ourselves what we value in our health care system and what it means to have health insurance in America. That is why we want this debate so we can find answers to those questions.

I stand with my Democratic colleagues who have called for an open debate. One of the reasons an open debate would be helpful is there is room for compromise. In fact, I am a cosponsor of a bipartisan patient protection bill that I think strikes an important balance between the two sides which we have heard about in the last few days.

We need to come out of our corners and debate the issues because I believe there is an important middle ground, one that many Senators can support, if we simply have the courage to debate the provisions of these bills and let the votes fall where they may.

I want to address an important area in the Patients' Bill of Rights; that is, the provisions that address coverage for emergency services. Both the Republican and Democratic bills provide coverage for emergency services using a prudent layperson standard. Unfortunately, the Republican version of the prudent layperson standard falls short of the standard that Congress has already enacted for the Medicare and Medicaid programs in the Balanced Budget Act of 1997.

This means that under that bill, hard-working Americans with private insurance will have less protection for emergency services than beneficiaries in Medicaid and Medicare programs. The bipartisan bill that I cosponsor and the Democratic Patients' Bill of Rights contain the real prudent layperson standard for emergency services.

What is the problem with the other version, that is, the Republican version of the prudent layperson standard? There are two important weaknesses in that standard.

First, that standard provides an inadequate scope of coverage for emergency services. We have heard a lot of discussion about the scope of coverage in the two bills over the last 2 days. The best example of why we need to have uniform protections for patients throughout the country is the prudent layperson standard.

The Federal Government is already involved in every emergency room visit in this country. We have strict Federal standards to protect patients with medical emergencies. These standards are embodied in the Emergency Medical Treatment and Labor Act or EMTALA. It is hard to argue that the Federal Government should not be involved in protecting patients with medical emergencies when the Federal Government already is involved.

The prudent layperson standard in the Republican bill only applies to 48 million people. Both the bipartisan bill and the Democratic bill apply this important protection to all 180 million people with private health insurance. We need to realize in the Senate, again, we have already mandated that anybody who goes to an emergency room should receive health care. That is mandated. We now have an opportunity to ensure that patients are not held financially hostage for the decisions they make in an emergency. There is broad bipartisan support for the patient-centered concept of the prudent layperson standard. Now we need to extend this scope of coverage so that it parallels the Federal statutes that are already on the books.

The other major weakness in the prudent layperson provisions in the Republican bill is the lack of provisions for poststabilization services. I want to point out what the debate about poststabilization services is all about. It simply boils down to two questions.

First, is poststabilization care going to be coordinated with the patient's health plan, or is it going to be uncoordinated and inefficient?

Second, are decisions about poststabilization care going to be made in a timely fashion, or are we going to allow delays in the decisionmaking process that compromise patient care and lead to overcrowding in our Nation's emergency rooms?

We have heard a lot of rhetoric about how poststabilization services amount to nothing more than a blank check for providers. If these provisions are a blank check, then why did one of the oldest, largest, and most successful managed care organizations in the world help create them in the first place?

Kaiser-Permanente is a strong supporter of the poststabilization provisions in our bill for a simple reason: They realize that coordinating care after a patient is stabilized not only leads to better patient care, it saves money.

Let me give an example of a case which took place in the past 2 months. It illustrates the problem quite nicely.

A woman came to an emergency department after falling and sustaining a serious and complex fracture to her elbow. The emergency physician diagnosed the problem and stabilized the patient. The stabilization process took less than 2 hours. Unfortunately, the patient's stay at the emergency room lasted for another 10 hours while the staff attempted to coordinate the care with the patient's health plan.

The plan was unable to make a timely decision about the care this patient needed. The broken bone in her elbow required an operation by an orthopaedic surgeon. The patient's health plan did not authorize the operation in the hospital where the patient was located. They denied this care because the hospital was not in its network, even though there was a qualified orthopaedic surgeon available.

After several phone calls, a transfer was arranged to another hospital. Unfortunately, the patient did not leave the hospital emergency room for almost 12 hours.

When the patient arrived at the second hospital, the orthopaedic surgeon looked at the complexity of the broken bone and decided he could not perform the operation. The patient, therefore, had to be transferred to a third hospital, where the operation was finally performed.

Let's look at the extra costs involved in this case. The patient had two ambulance rides and two extra evaluations in hospitals. The patient also laid in the emergency room with a painful broken bone for 12 hours before being transferred. During this time, the emergency room was very busy and the staff had to continue to care for new patients as they arrived.

So why did this occur? In this case, the problem occurred because the plan was unable to make a timely decision about the poststabilization care this patient needed.

This should not be how we in this country take care of patients with a medical emergency. I hope Republicans will join with us to pass a really prudent layperson standard for emergencies.

I urge my colleagues to allow us to have an open debate on the Patients' Bill of Rights. We need to have this debate. Americans want protections in their health plans. Americans want a system that balances the needs for access, quality, and cost control in their health care.

Before I close, I just want to mention how delighted I am to hear my colleagues talk about the needs of the uninsured in America. If they are serious

about working to address the problem we have with 43 million uninsured Americans, I obviously look forward to working with them. Once we have established basic, uniform rights in health care, we should return to the equally important task of providing access to health care for the uninsured in America.

It seems important that universal access to adequate health care should be our goal. But unless we recognize the importance of rights in health care, our constituents may end up with access to a system that is indifferent to both their suffering and their rights.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

THE CRIMINAL JUSTICE SYSTEM IN THE DISTRICT OF COLUMBIA

Mr. DORGAN. Mr. President, I want to call the attention of the Senate to a couple of items that relate to an appropriations bill we will be marking up this afternoon in about half an hour in the Senate Appropriations Committee.

We are going to mark up three bills. I will be there as a member of that committee. One of the bills deals with the District of Columbia. I have spoken on the floor in recent weeks about an issue dealing with the criminal justice system in the District of Columbia. I want to comment on it again in light of a news story in today's paper, this Thursday morning's Washington Post.

Some while ago, a young boy was rollerblading in the District of Columbia—a matter of weeks ago—and he was hit and killed by a car that then sped away. That car allegedly was driven by a man who was arrested, Shane DeLeon. He was arrested and put in jail and then, of course, let out of jail, as is so often the case these days.

Shane DeLeon, it says in the paper today, walked away from custody. It says:

> The man charged in the hit-and-run death of an American University student walked away from a District halfway house Tuesday and remained free last night. . . .

I want to read a couple of paragraphs because it describes, I think, the chronic problem in the criminal justice system in the District of Columbia and, I should say, elsewhere as well.

> Shane Simeon DeLeon failed to return to the Community Correctional Center on New York Avenue NE by his 11 p.m. curfew, according to D.C. Department of Corrections officials. [He] was allowed out of the facility from 7 a.m. to 11 p.m. to remodel the basement of his girlfriend's home on MacArthur Boulevard in Northwest Washington. . . .
>
> This is the third time [this fellow] has broken curfew. The first two times, he was under home detention.

Now he walks away again, this fellow who is facing second-degree murder charges.

I have spoken on the floor a lot about a case that was in the news a couple of weeks ago. I spoke about this case some years ago on a number of occasions and then again a couple of weeks ago. It is the case involving the murder of a young woman, Bettina Pruckmayr. Bettina Pruckmayr was a young attorney here in Washington, DC. She was abducted late at night and forced to go to an ATM machine and forced to withdraw money; and then her murderer, Leo Gonzales Wright, stabbed her over 30 times in a brutal murder.

It turns out, a couple of weeks ago, after this murderer was sentenced to Federal prison—3 years later, they discovered he had not been put in Federal prison, he was still out at Lorton. The Federal judge was justifiably angry, wondering, why couldn't they even get that right to send this murderer to Federal prison? My understanding is, he is in Federal prison now.

But the story in today's paper about a fellow facing second-degree murder charges simply walking away—he was allowed, by the way, while facing second-degree murder charges, to go help remodel the basement of his girlfriend's house from 7 a.m. to 11 p.m.—why is a fellow facing murder charges walking around, remodeling his girlfriend's basement?

It is the same story as that of Leo Gonzales Wright. What was he doing walking around on the evening that he eventually murdered Bettina Pruckmayr? Here is a man who robbed a convenience store and shot the convenience store owner; he robbed a cab driver and murdered the cab driver; and then he was sentenced to prison for a minimum of 20 years—not to be let out before 20 years—and he was let out nearly 5 years early, despite the fact that in prison he had 33 different violations for assault and drugs and weapons. Then he was let out on the streets 5 years before his sentence ended, and, while on the streets, he committed theft and tested positive for drugs. When he was brought before the parole board, this fellow, who was a twice-convicted murderer, was told: No; you can stay out on the streets on parole. Taking drugs as a violent offender is not serious enough to put you back in prison. Theft is not serious enough to put you back in prison.

So the message is: The authorities say that a violent offender can commit a theft, can take drugs, can remain on the streets, and remain on the streets in a manner that allowed him, on that fateful evening, to kill this young attorney named Bettina Pruckmayr.

A couple of weeks ago, 3 years after this man was sentenced to Federal prison, the Federal judge found out he was not in Federal prison at all—he was in Lorton—and the judge said: What on Earth is going on?

I looked into it in order to find out what happened. It is a mess. At every step along the way, this inspector's general report—which is some 50 pages long—shows one massive problem after another. This system is completely devoid of common sense. It is a system that says to the fellow who was up for second-degree murder: You go ahead and fix your girlfriend's basement. We'll give you every day, all day, from 7 a.m. to 11 p.m. to do that. Then he walks away on them, and they are surprised. Or a system that says to another fellow: Yes, we know you are violent, we know you are a murderer, but it is fine if you are on the streets taking drugs, and it does not matter if you are convicted of theft or charged with theft. That is a system, in my judgment, that is defective.

I intend to raise some questions at the markup today with respect to the District of Columbia. I notice my colleague from Illinois has come to the floor. He has raised questions that go directly to these issues.

This is the District of Columbia that says: We have a lot of money we want to offer for tax cuts. They do not have enough money, apparently, to have prison space to keep people convicted of murder in prison.

The Senator from Illinois has asked the questions now a good number of times publicly: What about that? What about your priorities? What about your responsibility to the memory of Bettina Pruckmayr, who was murdered by someone who should have never been on the streets to murder anybody? He should have been in prison, but he was let out early.

This fellow Leo Gonzales Wright was in Lorton Prison. Do you know why he was let out early from there? Because he apparently was allowed into the prison system to change his own records; so when they looked at his records, they had all been altered to say he was a good guy when, in fact, he was a bad guy. It is just unforgivable what is happening on the streets in this country, especially in the District of Columbia. And one additional point: It is not just there. There is a county adjacent to the District of Columbia in which two fellows are, I believe, on trial to be convicted for the murder of a couple people in a Mr. Donut shop. I asked my staff to look at the backgrounds of those folks. It seems the same two people carjacked a fellow on the interstate around this beltway, the same two people just months ago carjacked someone in a violent carjacking out on the streets so they could murder a couple people at a Mr. Donut late at night.

Day after day we read this, especially in the District of Columbia. I am sick and tired of it.

I will offer a couple amendments. I will consult carefully with my friend from Illinois, who is the ranking member on that subcommittee. One of the amendments is, if you are on parole in the District of Columbia for a violent crime and you are picked up on the streets as having taken drugs, you ought to find that your next address is back in that same jail cell. We ought not have violent criminals on parole taking drugs and then have parole officers say that is alright; that it is a minor infraction.

If you are a violent offender on parole taking drugs, my friend, your address ought to be a jail cell, once again, to the end of your full term.

I intend to offer that amendment. I hope that is the sort of thing we can get passed.

I yield to the Senator from Illinois.

Mr. DURBIN. I thank the Senator for raising this.

In just a few moments, we will go to the Appropriations Committee and consider the D.C. appropriations. I ask my friend from North Dakota to follow with me for just a moment on some of the facts that we will face.

I do love the District of Columbia. I went to college and law school here, and it is a beautiful city. I think anyone who has been here more than 15 minutes knows that it has serious problems when it comes to the crime rate, when it comes to the status in schools. The District of Columbia has an annual budget of about $5 billion; $1.8 billion comes directly from the Federal Government. We are big players when it comes to the District's budget.

The District of Columbia's city council has decided that things are going so well in this city, when it comes to crime and schools, they have $59 million that they are going to give back to the residents in tax cuts.

To a staffer of mine the other day, at the end of the day, I said: Do you need a ride home?

He said: I only live 5 blocks from the Capitol Building of the United States. I ordinarily walk, but last week a woman was stabbed to death in my neighborhood 5 blocks from the United States Capitol Building.

I said: Do you know what you need in your neighborhood, according to the D.C. city council? You need a tax break.

Let's get serious about it. The first thing the residents of the District of Columbia want is safety in the streets and quality schools. This D.C. city council has turned its back on that. They said: We are going to acknowledge the fact that we are the worst in the Nation when it comes to infant mortality, the worst in the Nation when it comes to the basic standards of judging children, and yet we are going to stop spending money and helping these kids. We are going to give it back in a tax cut.

Then they turn around, wanting an additional $17 million for a scholarship program, money that is going to be taken out of the Labor-HHS appropriations.

What could that money do? It is money that goes to the National Institutes of Health for medical research. They want $17 million of that to spend on a scholarship program, while they give away $59 million.

I concur with the Senator from North Dakota. I have never felt it was my congressional responsibility to be the mayor of this town or a member of the city council. But when they are absorbing Federal money, we have the right to say: You have done something which is shameful. To give away $59 million worth of problems that this city faces is just unconscionable.

If you walked into any Senate office or any House office and asked the staff members: Has anybody here been mugged, has your home been broken into or your car? You would be shocked. It is a common occurrence in this town.

We have to do something about it. I salute the Senator from North Dakota. I hope that he is aware of the debate we are about to have in a few moments.

Mr. DORGAN. I am fully aware of that debate and in full support of the statements the Senator from Illinois has made.

Let me put up a chart that shows what has sparked my ire. I am not someone who comes to the floor to beat up on the District of Columbia, nor is the Senator from Illinois. I have simply had a bellyful of this behavior by folks in the criminal justice system in the District of Columbia.

This headline ran a couple of weeks ago: Killer Sent to Wrong Prison after Second Murder. This headline is referring to Leo Gonzales Wright who murdered Bettina Pruckmayr. Three years after he was sentenced by the Federal judge, they still couldn't get him in the cell that he was supposed to be in.

The point is, the inspector general report—I urge all my colleagues to read it—shows a system that is totally corrupt. It portrays a system that says to a violent murderer: You are out on parole. You are out early. You can take drugs. You can be charged with theft, and we don't care. You get to stay on America's streets.

A city that can't keep violent offenders off its streets and behind bars is a city that can't keep its streets safe. American citizens deserve better, especially in America's Capital, Washington, D.C.

The recommendations of the inspector general are really interesting. I read this at home the other night. When I finished reading it, I shook my head and said: This is such an incompetent system. It doesn't take rocket science to know what you have to do. When someone holds up a convenience store and shoots the owner, when the same person then decides to rob and murder a cabdriver, and then when that person is let out of prison early and decides to take drugs and steal, does that person belong on our streets so that this wonderful young attorney Bettina Pruckmayr can show up at an ATM machine one night, only to be savagely murdered by this animal? Does this person belong on the streets? Of course not.

Who was responsible for putting this person on the street? The criminal justice system. Person after person after person failed, and the result is a dead woman, a dead, innocent, young woman, full of promise, who met a killer on the streets of our Nation's Capital.

I say again, when we come to the floor—I will go to the Appropriations Committee in 15 minutes—I will offer two amendments, one of them dealing with drugs. I would have thrown this man back in prison immediately, and he wouldn't have been anywhere near Bettina Pruckmayr to be able to murder her that evening. I would have said: If he is found with drugs, as he was repeatedly, having been a formerly convicted murderer, that man goes back to a prison cell. That is just common sense.

Do you know, the policy of the District of Columbia was that drug use by someone on parole was not a serious enough offense to put them back in prison? What on earth can they be thinking? They are going to give a tax cut, but they don't have enough money for prison cells to keep violent people behind bars.

Shame on those people. Shame on those people who make those judgments. The murder of a young woman and so many others are on their shoulders.

Mr. LEAHY. Will the Senator yield.

Mr. DORGAN. I am happy to yield.

Mr. LEAHY. We represent, I believe, the two States with the lowest crime rates in the country. Our States are about the population of the District of Columbia. I expect either one of us could pick out a 2- or 3-day period last year or in this past calendar year in the District of Columbia where more murders occurred than our States put together for the year.

Without sounding like a poster child for the gun lobby or something else, I express one frustration, also watching what has happened in this recent tragic killing of a grandmother, when what appears to be, at least if the news accounts are accurate, people arguing over whose car bumped into whose car, and suddenly there is a gang on the street armed like the marines landing in Kosovo, and now with the nationwide spotlight on this crime, the police go into action and suddenly start confiscating guns.

I ask the Senator from North Dakota: Is it not his understanding, as it is mine, that the District of Columbia has virtually the toughest gun laws in the country? The carrying of these weapons or possession of them is a crime. Yet have you seen an awful lot of people go to prison for carrying these weapons, even though they are found with them all the time?

Mr. DORGAN. In answer, I think there is a leniency here in this system that is unforgivable. The case that the Senator from Vermont just mentioned is referenced in the newspaper today. That case is the grandmother who was trying to grab these children and get them off the streets as the bullets began to fly last Monday. It says in this same story this morning that Derrick Jackson, age 19, has been charged with the first-degree-murder death of Helen Foster-El by stray bullets on Monday night. He had walked away

from a juvenile home in April. He had been placed there in connection with juvenile drug and stolen vehicle charges. I will bet you that if you and I take the time to try to get this person's record, we will find a record as long as your arm and that person ought not to have been anywhere near that neighborhood to be able to fire a gun.

I will bet you that the record would justify, by any standard of any reasonable person, that this young man ought to have been in jail. But he was out on the streets with a gun. I don't have the record, but this is a guy who walked away from a halfway house or a juvenile home in April. Now it is almost the end of June.

Mr. LEAHY. If the Senator will yield further, since he has already read that, if he will look at some of the numbers of unclosed cases, or the number of times when leads are not followed up, the number of complaints I have received in my office, and people making complaints to police departments that have never been followed up, witnesses never sought—we spend an awful lot more in law enforcement in this city than they do in the whole States of North Dakota and Vermont. There are a lot more people, a lot more officers available. I know many of them do excellent work, and they put their lives on the line, and some lose their lives. But I also know there are a lot of areas in this city where drug selling is out in the open and a matter of public knowledge, and where illegal possession of weapons is a matter of open knowledge, and nothing happens until the spotlight of one of these terrible tragedies occurs.

So I appreciate the Senator's comments.

Mr. DORGAN. Let me make one final point. There is one other part of this, the case I have described, the Leo Gonzales Wright case.

I have always thought that in this country, in our criminal system, we ought to have two standards, one for violent offenders and one for nonviolent offenders. In every State, violent offenders should never get time off for good behavior. Your prison cell ought to be your address until the day your sentence ends, period, no time off. Leo Gonzales Wright earned nearly 5 years of time off for good behavior despite 33 violations in prison for assault, weapons, and drugs—5 years off for good behavior. He should not have been on the streets.

I have a bill that is simple. I have never been able to get it passed. It says this: If any jurisdiction in this country lets a violent offender out of prison early and that person commits a violent crime during the time they would have been serving a sentence, then the government—the city, county, or State that let him out—is responsible to the victim or the victim's family and doesn't have immunity from a lawsuit. This bill would force them make a calculation before sending a violent offender back to the street as to, what might this cost us in terms of what that offender might do to a potential victim? I would like to see Congress pass that at some point. I am going to continue to try.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. 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. COVERDELL. Mr. President, I ask unanimous consent to speak in morning business for 5 minutes.

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

AGRICULTURE APPROPRIATIONS

Mr. COVERDELL. Mr. President, there is no community in America that is suffering more difficulty today than rural America in agribusiness. My State is a very large agriculture-based State, and ever since I have been in the Senate, we have been struggling with drought, flood, low commodity prices—you name it. It has been very unsettling to families that have been in agribusiness for over a hundred years, that are facing very difficult personal decisions about their ability to stay in business.

Now, to be candid, by now we should have passed S. 1233, a $60.7 billion budget authority for agriculture, rural development, and nutrition programs. The bill contains provisions for food stamps, child nutrition, payments to the Federal Crop Insurance Program, Commodity Credit Corporation, and discretionary spending for agricultural purposes. It is the people's business because agriculture is the cornerstone of our national security, our quality of life, and our economy. In our State, agriculture is one-third of the economy, and across the Nation it approaches 30 percent.

We are stalled for political purposes. We ought to be doing the Nation's business. We ought to be proceeding with this agriculture bill. This is not the time to have a debate between two very different views about how to deal with the Patients' Bill of Rights. I am stunned that those on the other side of the aisle would choose agriculture—which, as I said, is so terribly stressed—and use that as a vehicle to try to create a political debate in the Senate. I have letters from our school of agriculture, I have documentation of the massive losses that have occurred in agriculture in our State, and we look to this legislation to be a part of the relief, a part of stabilizing agriculture in our State.

Last year alone, we lost $700 million in agriculture interests in the State of Georgia. I will tell you what this reminds me of. It is an uncaring kind of way of dealing with this legislation. It reminds me of the way the administration handled disaster relief. In the omnibus bill of 1998, we gave the Department of Agriculture $3 billion for disaster payments, and October went by, and November went by, December, January, February, March, April, May, and June; and finally, 9 months later, we got disaster payments into the hands of people who have long since passed financing requirements and planning decisions and the like. And here we are once again trying to deal with this critical bill, and we have basically a political filibuster underway that can do nothing but add to more anxiety and worry in this very important economic sector of our country dealing with thousands upon thousands of families every day.

We ought to be on with the business of getting this agricultural appropriations bill handled. We will find the right time to handle these other issues. But right now, it is time for the people's business, and it happens to be a group of people who are in deep trouble in America.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION—Resumed

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1233) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 737

(Purpose: To prohibit arbitrary limitations or conditions for the provision of services and to ensure that medical decisions are not made without the best available evidence or information)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mrs. FEINSTEIN) proposes an amendment numbered 737.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

QUORUM CALL

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

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. I don't believe there was objection.

Mrs. FEINSTEIN. I object.

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

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 7]

Coverdell	Kennedy	Nickles
Feingold	Kohl	Schumer
Feinstein	Lott	Sessions
Fitzgerald	Murkowski	Voinovich

Mr. LOTT. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators.

The PRESIDING OFFICER. The motion is in order since a quorum is not present.

Mr. LOTT. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. 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 Texas (Mr. GRAMM) is necessarily absent.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) is necessarily absent.

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—97

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

NAYS—1

Breaux

NOT VOTING—2

Gramm Harkin

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

Mr. LOTT. Mr. President, the Senate has a responsibility, obviously, to do the people's business. Up until a couple of days ago, we were doing pretty good this year. We had already moved four appropriations bills. We had taken up a number of important issues including the Y2K liability bill, the financial services modernization, the national missile defense bill, education. We were moving right along. But all of a sudden a couple of days ago that stopped.

Why is that? It is because the Democrats—Senator KENNEDY, Senator DASCHLE, Senator FEINSTEIN, and others—want to offer an unrelated bill to agriculture appropriations. That bill is the Patients' Bill of Rights.

Going back to last fall, we have talked many times about finding a way to have that legislation considered, trying to come up with some timeframe that is fair to all. Consistently we have had requests for many amendments. I don't know, I think it started off with the Democrats saying they had to have 40 amendments. I believe at some point it got down to 20, although it is not clear to me they would even agree to limit it to 20.

On the other hand, we have argued we have a good Patients' Bill of Rights bill, one that was developed by a task force chaired by Senator NICKLES which included Senator COLLINS, Dr. BILL FRIST, Senator SANTORUM, Senator JEFFORDS, and Senator ROTH. A really good group worked very hard to come up with a good bill, with some provisions for protections of patients' rights, with provisions for an appeals process when there is a disagreement with a decision within a managed care facility, both internally and externally. It is a good bill. We are prepared to vote on that.

The Democrats, on the other hand, have a bill of their own that takes a very different approach, and a big part of it is lawsuits will be the final arbiter on how these health decisions will be made.

We say if you have a good package, let's vote on yours. We will vote on ours. This week we, in effect, did that. We voted not to table our proposal, and we voted to table the underlying Kennedy amendment.

We have tried very hard to come up with a way for this to be considered without it becoming an obstruction to the people's business.

What is the people's business? The bill pending is the agriculture appropriations bill, $60.7 billion for the farmers in America. But it goes beyond just farmers. It also includes such programs as food stamps, women, infants, children, school breakfast, and lunch programs. It is a broad bill and an important bill. At a time when our farmers have lost markets and are having a tough time, we are tied up and delaying the agriculture appropriations bill with an unrelated measure.

In addition to that, we have ready for consideration the transportation appropriations bill, the State-Justice-Commerce appropriations bill, the foreign operations appropriations bill, and I believe in short order the Treasury-Postal Service appropriations bill.

In addition to that, we have very important legislation such as the intelligence authorization bill we need to have considered, now that we have passed the defense authorization and appropriations bills. We have the very critical question of how are we going to deal with the nuclear espionage at our labs around the country. We have an important proposal pending on that. We have several very important appropriations bills that we need to move. They are the people's business.

The point is, we want to have our other measure considered. We have gone back and forth. Senator DASCHLE and I have worked through the last 36 hours or so. We have gone back and forth with alternative suggestions. We started out 2 nights ago saying maybe we can do it this Wednesday and Thursday and be through with it Thursday night. That did not get very far.

Then we said, how about if we take it up July 12 when we come back from the recess and we will spend that Monday, Tuesday, Wednesday, Thursday and by the close of business on Thursday we will have completed this debate.

Maybe some people say that is not enough time. That is a pretty long period of time for debate on a legislative measure, and it is a long period of time when you take into consideration the other work that we really must do for the people in passing appropriations bills, in complying with the budget resolution, and the reconciliation bill to allow us to return some of the tax overpayment to the working people of this country. That is a long period of time in the middle of the summer when our focus really needs to be on considering the appropriations bills that provide what the people in this country need from their Government, if you are convinced these appropriations bills do that.

We talk about agriculture and transportation. You can certainly argue that. Foreign operations, here is a time when we have very delicate relations around the world. We just passed the State Department authorization bill after about 3 years of trying. It seems now we need to provide the funds that go along with that. So we went back and forth.

I want to read the latest iteration as of 6:30 last night, June 23, of what we

offered to try to get this matter considered by itself and in a reasonable period of time. Apparently, for a variety of reasons, we have not been able to get this agreed to or worked out:

I ask unanimous consent——

I am not asking this, I am just reading the consent request because it is obvious there would be objection to it——

that the text of amendment No. 703, as modified, or 702—

That would be either the Kennedy version or the Republican version—

be introduced by the majority leader, or his designee, and become the pending business at 1 p.m. on Monday, July 12, 1999, with a vote occurring on final passage at the close of business Thursday, July 15, and the bill be subject to the following agreement: That all amendments in order to the bill be relevant to the subject of amendment No. 703 or 702 or health care tax cuts, and all first-degree amendments be offered in an alternating fashion, and all first and second-degree amendments be limited to 2 hours each to be equally divided in the usual form.

Two hours for the first-degree amendment; 2 hours for the second-degree amendment. I don't know quite what that adds up to over a period of a week, but a lot of amendments could be considered under that period of time. I think 2 hours is a reasonable period of time when you take into consideration the significance of some of the issues that would be debated. In some instances it would not take 2 hours; it might not take 30 minutes.

I assume that somebody is going to offer an amendment both sides will like, and we will say: Yes, we'll take that. So it would not take that long.

I further ask consent that second degree amendments be limited to 1 second degree amendment per side, with no motions to commit or recommit in order, or any other act with regard to the amendments in order, and that just prior to third reading of the bill, it be in order for the majority leader, or his designee, to offer a final amendment, with no second degree amendments in order.

I further ask consent that following passage of the bill, that should the bill, upon passage, contain any revenue blue slip matter that the bill remain at the desk and that when the Senate receives the House companion bill, that the Senate proceed to its immediate consideration, all after the enacting clause be stricken, and the text of the Senate passed bill be inserted in lieu thereof, the bill as amended be passed, [and] the Senate insist on its amendment. . . .

Very simply, that is to avoid the blue slip problem with the House of Representatives of a measure we pass that has revenue in it and to make sure this matter does not just die aborning here.

I further ask consent that no other amendments relative to the Patients' Bill of Rights be in order, for the remainder of the first session of the 106th Congress.

Once again, let's have the debate, have the amendments. Let's have a vote—win or lose, whichever side. Then you move on.

I further ask consent that at any time on Thursday, July 15, it be in order for the Majority Leader, if he deems necessary, to offer a comprehensive amendment containing several provisions, that the amendments/titles therein be considered en bloc and a vote occur on or in relation to that amendment, with no second degree amendments in order, prior to 3rd reading and the offering of the last amendment by the Majority Leader.

That is traditionally the way it has happened. The majority leader—the majority gets to offer the last amendment or substitute, for that matter.

Finally, [we] announce . . . the two Leaders [will work together to agree] to pass three to five of the remaining appropriations bills available, prior to the July 4th Recess.

And we listed the appropriations bills.

I wanted to make sure everybody knew that—both the Democrats and Republicans, and members of the media, and our constituency—because I think it is a fair proposal. Basically, it is 4 days on this subject, with designated periods of time, with an end date involved—Thursday, July 15.

Amendments could be offered. I do not know how many that would provide for, but I presume as many as 16, maybe more, depending on how long it takes on some of them and how much time would be yielded back.

Let me just say, there is not 100-percent agreement on our side of the aisle that we should do this. But at some point you have to come to an agreement of how you proceed and how you get an issue considered, how you get it voted on. This seemed fair to me.

Frankly, I do not even like the idea of putting time limits on these amendments. I think we ought to have a jump ball, call it up on Monday, the 12th, and offer amendments. Let's debate them and vote and, when we get to the 15th and have final passage. But there was a feeling, to some degree on both sides, that we ought to have some time limit specified in that agreement.

I think we are dealing here with sort of a Molotov minuet. Everything we have tried to do, we are being met with: No. Nyet. We can't do that. No. We can't do something else.

I began to wonder, do we want to address this issue or do we just want the issue? I have been through that before.

I can remember we had the Kennedy–Kassebaum bill a few years ago—3 years ago—and as long as everybody was all dug in and saying, we are not going to consider that, we are not going to do this and not going to do that, nothing happened. Once we finally said, we are going to do it, we did it and moved on.

I think that is what we ought to do—move on here, have a focused debate, have some amendments, vote on them, and be done with it.

Where are we at this particular time?

We do have pending, I guess, an amendment by the Senator from California, Mrs. FEINSTEIN, that she feels very strongly about. I would like to get a time agreement on that amendment and have it considered and vote on it and move on.

We have a Frist second-degree amendment by Senator FRIST from Tennessee that will be offered.

But I also should make this point: All of this is legislating on appropriations bills. All of that is possible under the rules because of a ruling that occurred a few years ago which allows this sort of legislating on appropriations bills. I have been heckled in the past: ''We ought to change that,'' on the Democratic side and on the Republican side. And I think we should.

People on both sides of the aisle might say: Wait a minute, that is the only way I can get my legislation considered. Look, that is why we have authorization bills. We—both sides—abuse this. We ought to stop it. That is what contributes to the difficulty we have in passing appropriations bills now every year, because we are busy legislating things on appropriations bills that we might not be able to get through a committee or might not be able to get on an authorization bill.

Somebody said: Well, how would we do it? A novel idea: Go back and do it the way we always did it, on authorization bills, not on appropriations bills. I think you could argue back and forth whether that benefits the majority or the minority. I do not think we ought to get into that on something such as this. It is the right thing to do in eliminating this procedure. We should not be having legislation, a whole bill, put on the agriculture appropriations bill.

So that is sort of where we are.

I propose we go forward and try to get some indication of where the votes are, have some debate on the point of order or legislation on appropriations bills, have the debate on the Feinstein amendment, have some debate on the Frist amendment, and then let's have some votes and see where we are. But I think we need to make up our minds: Are we just going to say no or are we going to move forward?

We could still do a lot of work next week that would be in the people's interests. Last week we passed six bills and made a big start on State Department authorization. We can do that next week. We could go out next week having passed three or four appropriations bills, perhaps the intelligence authorization bill, and several nominations.

We are now beginning to have some nominations come on to the calendar out of the Commerce Committee and out of the Judiciary Committee and out of the Foreign Relations Committee. In fact, I saw we had about 8 or 10 that came on last night, and more have come on. We could wind up with a burst of activity that would serve the Senate well. It would serve the American people well.

Quite frankly, Senator DASCHLE and I like to do that, because we agreed a long time ago, when you do your work, everybody wins, but when you dig in and just find ways to continue the Molotov minuet and say no, everybody loses.

So I think we ought to move forward. I urge my colleagues on the Democratic side to consider how we can get this done. Let's get this agreement

worked out, and let's move on with these very important appropriations bills.

Mr. DASCHLE addressed the Chair.

Mr. LOTT. Mr. President, I do have some things I need to do. I know Senator DASCHLE would like to respond.

Does the Senator wish to ask a question or to respond on his own time or I should just yield and keep the floor and wait for you to finish?

Mr. DASCHLE. Mr. President, certainly the majority leader can——

Mr. LOTT. I do have some work I need to do.

Mr. DASCHLE. I do want to respond. If you want to finish —go ahead.

Mr. LOTT. Why don't I do this because I think it would be more appropriate. Let me just yield to Senator DASCHLE so he can respond. When he finishes, I will go back and do this procedural work.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DASCHLE. I thank the majority leader.

Mr. President, let me respond to a number of the comments made by the distinguished majority leader.

He certainly is right in that we have attempted to work our way through this for some time now. But I will say, if this is a Molotov minuet, there is only one side dancing. And in the Senate, both sides have to dance to make progress. In the Senate, if we are going to have a dance, it takes both sides to make it work. We are getting shut out.

That is what this is about. We are shut out. We want to see progress, and there are colleagues on the other side who want to continue to shut us out. We are left with no recourse. We will minuet with anybody so long as there is somebody there to dance with.

Let me just talk about the lament of our distinguished majority leader that this is an amendment to an unrelated bill. Just last week, Senator MURKOWSKI offered the Glacier Bay legislation to the steel bill, and I listened very carefully to see if there was one Senator on the other side who would object to bringing up a glacier amendment on a steel bill. It was a cold steel bill, but it was not a glacier bill.

Yet there we were, unrelated legislation offered with no objection.

The majority leader understandably talked about the ruling on the energy appropriations supplemental. Just for the RECORD, he made mention that it was a ruling. It actually wasn't a ruling. It was the majority overturning the ruling. Fifty-four Republicans, actually 57 people, but 54 Republicans, 100 percent of the Republican caucus, overruled the Chair when the Chair ruled, on March 16, 1995, that you couldn't legislate on appropriations. One hundred percent of the Republican caucus said: Yes, we can, and we are going to say to you, Mr. President, we are overruling you.

Now we hear our colleagues saying: Oh, my goodness, we are legislating on appropriations.

I ask unanimous consent that the text of the amendment and the rollcall be printed for the RECORD.

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

SENATE VOTING RECORD—NO. 107

[104th Congress, 1st Session, March 16, 1995]

Emergency Supplemental Appropriations, 1995

(Endangered Species)

Amendment No.: 336

Bill No.: H.R. 889.

Title: ''Supplemental Appropriations and Rescissions Act, 1995.''

Subject: Hutchison appeal of the Chair ruling that the Hutchison, et al., amendment, which rescinds $1.5 million from amounts appropriated for the Fish and Wildlife Service to make determinations regarding whether a species is threatened or endangered, and whether a habitat is a critical habitat under the Endangered Species Act; prohibits any remaining funds designated for Resource Management, under the Fish and Wildlife Service, from being used to make a final determination that a species is threatened or endangered, or that a habitat constitutes a critical habitat; and provides that any court order requiring the Fish and Wildlife Service to make determinations relating to species or habitat by a date certain, shall not apply to the Service if funds are not available to make those determinations by the date required in the court order, violates Rule XVI of the Standing Rules of the Senate. (Subsequently, the amendment was agreed to by voice vote. See also Vote No. 106.)

Note: Rule XVI of the Standing Rules of the Senate prohibits the inclusion of new or general legislation in any appropriations bill. H.R. 889: Vote Nos. 101–103, 105–108.

Result: Decision of Chair not sustained.

YEAS (42)

Democrats (42 or 93%)

Akaka, Baucus, Biden, Bingaman, Boxer, Breaux, Bryan, Bumpers, Byrd, Daschle, Dodd, Exon, Feingold, Feinstein, Ford, Glenn, Graham, Harkin, Heflin, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Mikulski, Moseley-Braun, Moynihan, Murray, Nunn, Pell, Pryor, Reid, Robb, Rockefeller, Sarbanes, Simon, Wellstone.

Republicans (0 or 0%)

None.

NAYS (57)

Democrats (3 or 7%)

Conrad, Dorgan, Hollings.

Republicans (54 or 100%)

Abraham, Ashcroft, Bennett, Bond, Brown, Burns, Campbell, Chafee, Coats, Cochran, Cohen, Coverdell, Craig, D'Amato, DeWine, Dole, Domenici, Faircloth, Frist, Gorton, Gramm, Grams, Grassley, Gregg, Hatch, Hatfield, Helms, Hutchison, Inhofe, Jeffords, Kassebaum, Kempthorne, Kyl, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Santorum, Shelby, Simpson, Smith, Snowe, Specter, Stevens, Thomas, Thompson, Thurmond, Warner.

NOT VOTING (1)

Democrats (1)

Bradley (necessarily absent)

Republicans (0)

None.

ANALYSIS OF ISSUE

Party Cohesion

Democrats—93%
Republicans—100%

Measure of Party Support on this Vote

For (42)

Democrats—42 or 100%
Republicans—0 or 0%

Against (57)

Democrats—3 or 5%
Republicans—54 or 95%

Mr. DASCHLE. The majority leader has also said this is a good bill; the Republican Patients' Bill of Rights is a good bill. We don't think so. But if it is such a good bill, what is wrong with just putting it before the Senate and having a good debate about a good bill? That is what we are supposed to do here. We are supposed to put legislation down and have at it.

I have lamented several times that there are those in this Chamber who believe that a good bill ought to be accompanied by a good rule. The rule is, we will allow amendments if we like them. If you want that kind of an environment, run for the House of Representatives because they have all kinds of rules like that. If you want to do it the way we do it here, have at it. Let's have some good debate. Let's not say we are going to have to approve every amendment offered by our colleagues prior to the time we even agree to go to the bill. If it is a good bill, it ought to have a good debate.

The majority leader also read the unanimous consent request agreement. I will not in any way denigrate the effort that the majority leader has made to try to accommodate both sides. He has worked diligently to make that happen. But let me just explain what is wrong with that agreement as we see it.

First of all, it requires an end date. That, perhaps, is the most significant concern we have all had. I dare ask, could somebody come back and tell me when was the last time we said we will take up a bill with an absolute guarantee that we will have an end date? We haven't even talked about—and it is murky—whether we are talking about final passage. I think we are, but we haven't agreed to that. There is just an end date. We would have to quit debating this at a time certain.

Well, in a body such as this, when we agree to consideration of a bill without any other rules than that, if we just say we are going to end this debate at a time certain, guess what happens? Anybody can take the floor and monopolize the floor for days, if they want to. That is the first problem.

The second problem is, as the distinguished majority leader indicated, under this proposal, each amendment would have 2 hours. That is right. He also noted that each amendment would have 2 second-degrees, subject to 2 hours. By my calculation, sophisticated as it is, that is 6 hours per amendment. One first-degree, 2 second-degrees, 2 times 3 is 6. If the majority leader were good enough to allow the Senate to go for 12 hours, that means 2 amendments per day. There are 3 days. Two amendments per day, 2 times 3, ironically, once again, you get 6. It is amazing how this math works out. It always comes down to 6. That is our problem.

Mr. NICKLES. Will the Senator yield?

Mr. DASCHLE. Let me finish, and I will be happy to yield.

Six amendments. I know our colleagues on the other side say: Certainly, we wouldn't use all that time.

With that end date, who knows? As difficult as it has been to bring up amendments with second-degrees and with tabling motions, who knows how long and how many amendments we will be able to bring up. That is the problem.

Here are the concessions we have made in this agreement. In the Senate, you are able to bring up a farm bill on a peace treaty. But we said on this bill it has to be relevant. We will agree to relevancy. We said we may even agree to an end date.

Now, the majority says: We also are insisting, and it was in this agreement, we are insisting that you never talk about the Patients' Bill of Rights until the next millennium. That is in here. What it says is, you can't bring it up in this entire Congress, but this entire Congress goes into the next millennium. So it is a gag rule until the next millennium on the Patients' Bill of Rights.

Now, they did change it. They would acknowledge a willingness to change it to the end of this session, but we couldn't talk about it anymore this session.

Then, of course, we have the question of how we resolve the outstanding issues on amendments. I have suggested that we leave it to the two leaders to offer amendments without debate at the end. Say we run up to the end of the time and somebody unfortunately has used all of the time and we are stuck here with 20 amendments and we have only debated one, let's take the worst case scenario. I am stuck here with my colleagues demanding that I protect them, and I have got 19 amendments in my hands. I said: At least let us have a vote on that. No debate; we will just have a vote. They wouldn't agree with that. No debate. No votes.

Then the ultimate power the majority has are the two things that the majority leader made reference to. The first is the power of the second-degree. Anything we lay down, they get to second-degree. And because they have 55 votes, usually they win. Second-degrees are powerful, and they have them. We have agreed to that.

The other thing they have, probably the most powerful of all, is the majority leader's right of first recognition. Let's assume we have worked through all of this and we have won more than our share of amendments. Well, the majority leader, as is his right—and it will certainly be my right when we are in the majority—has the opportunity to say at the end: Well, I am going to lay down an amendment to wipe out everything we have done. That is my right as a majority leader. I am going to offer an amendment to wipe it all out.

He can do that, and that is in this agreement.

I must say, I have to ask, what are they afraid of? What is it about these amendments they don't want to vote on? What is it about a procedure that is so extraordinary if all we want to do is be able to offer the amendments and we will agree with most of everything that has been listed here?

I can't figure it out, but that is for them to share with the rest of us.

We have tried. I think my colleagues have given me a pretty clear indication where they are, as a result of a caucus this afternoon. They weren't very wild about this. I can understand why. We have 48 amendments listed here that my colleagues have all said are important and ought to be determined in debate and in a vote.

There are those on the other side who say: We just don't have time. Well, we had time to take up 159 amendments on the defense authorization bill. We had time to bring up 67 amendments on the defense appropriations bill. We had time to bring up 104 amendments on the budget resolution. We had time to bring up 66 amendments on the supplemental appropriations. We had time to bring up 38 amendments on the Ed-Flex bill. We even had time to bring up and dispose of 26 amendments on the military bill of rights.

If we had 26 amendments that were legitimately considered on the military bill of rights, how about 20 amendments on the Patients' Bill of Rights? That doesn't seem too much to ask to me.

So here we are. This is an important issue. It isn't going to go away. We can do it the easy way or the hard way. It appears that we are inclined to do it the hard way. We are prepared to do it any way. We will minuet with anybody, but it takes two to tango. We are here to do our job.

I yield the floor.

Mr. LOTT. Mr. President, I yield to the Senator from Oklahoma, Mr. NICKLES.

Mr. NICKLES. Mr. President, I am really kind of surprised that our colleagues have not agreed to the unanimous consent proposal that was made last night. I am almost shocked because when you think about it—let me put it in a little different perspective. We have about 8 weeks that we are going to be in session before the end of September, before the end of the fiscal year. We have a lot of work to do in that period of time.

The majority leader basically made a proposal that said you can have almost all of a week. He said we will have a week off on the July 4th break, but then when we come back, you can have Monday, Tuesday, Wednesday, and Thursday. That is 4 days not 3. It is 4 days. Under that proposal, amendments were limited to 2 hours each.

That is a major concession. A Senator has a right to have unlimited debate on any amendment. Some of these amendments are very significant, as I think everybody would agree. Some of the proposals would change every single health care plan in America. Some would be quite expensive. Some would increase everybody's health care costs across the country. So we should not do that lightly. Probably we should not do it in 2 hours. If one amendment can increase every health care premium in the country by 1 percent—and there are a couple proposals to do that—we should discuss that because a lot of people are concerned about the growing cost of health care.

Under our proposal we said every amendment would have a 2-hour time limit. Granted, every amendment could have two second-degree amendments. I would be happy to modify that to one second-degree amendment if you think that advances your cause. I would be happy to do that. It doesn't take a brain surgeon to figure it out. I probably should not say that; Senator FRIST is here. I would not assume a second-degree amendment is exactly the same or that close to the first-degree amendment.

So, really, if you have 2-hour time limits, if you have one amendment and a second-degree, that is two amendments every 4 hours. We don't have to have a second-degree on every amendment. So you can have a lot of amendments in 4 days, a lot of them, probably to accomplish the desires that you have expressed to us, which is that you wanted to have 16 amendments or 20, or something similar to that. Some of those amendments on the list, hopefully, would be agreed upon. I haven't looked at the list. I haven't seen the list. But I am sure we can come to an agreement. I am also sure you don't have to spend 2 hours on every single amendment.

So my point to my colleagues who have had amendments, and to the Senator from California, I mention this: You have the best deal you are ever going to get. It takes unanimous consent. A lot of Senators over here don't want to give unanimous consent to 2 hours on some of these amendments. That was in the proposal. I can't believe you didn't accept it, and then you said you want Friday, too. That is regrettable.

Other people have said, wait a minute, now you are talking about making a point of order that you should not legislate on an appropriations bill. The Senator from South Dakota says we have done it before—a couple weeks ago. We have a real problem. We changed the rules by an action on the floor, and a lot of us voted that way and said, wait a minute, that has not helped us manage the Senate. We have had a rule in the Senate—a rule called rule XVI—which many times is abused and ignored; we legislate a lot on appropriations bills. But it makes it very difficult to accomplish things. Maybe that rule should be reinstated. Both Democrats and Republicans know we should reinstate it. Let's leave the authorizing and legislating up to the

authorizing committees that have the experience and expertise to do so.

Mr. GREGG. If the Senator will yield for a question, I noticed that the Democratic leader held up a list of the vote and pointed out that 54 Republicans voted to overrule rule XVI, and that three Democratic Members, I guess, voted with us. Then that would mean that the balance of the Democratic membership—well into the 40s—voted for maintaining rule XVI. As I understand that argument, we are basically saying those guys were right.

Mr. NICKLES. The Senator is correct.

Mr. GREGG. I would think the Democratic membership would be happy about that and would accept our representation that we made a mistake and that we are happy to acknowledge it, and we are going to own up to that mistake and join with them and say they were right the first time we voted on this and we will be with them this time.

Mr. NICKLES. Mr. President, I appreciate the comments of my colleague. My point is that rule XVI is not a Democrat rule or a Republican rule. It is a rule that has been abused in the past, and it ought to be reinstated. It is a rule that would help us do our Nation's business and finish our appropriations bills on time. We should leave the legislating up to the appropriate authorizing committees. If the authorizing committees aren't passing legislation we want, maybe we ought to give them a jump start. It goes through the appropriate legislative process.

I compliment Senator CRAPO from Idaho, who suggested that we should do this. He is right. Many of us suggested that we do this long before we came into this dilemma. I told my friend and colleague from California this amendment doesn't belong on the agriculture appropriations bill. Granted, if you want to try to pass the so-called Patients' Bill of Rights, piece by piece, or body part by body part, on an agriculture appropriations bill, you are wasting everybody's time. There is no way in the world an agriculture appropriations bill is going to come back with a Patients' Bill of Rights. Maybe you are making political statements, but you are not legislating effectively. It is not going to become law.

The majority leader proposed that we will give you basically a week, 4 legislative days, with time limits on amendments, which nobody has seen on either side. That is a tremendous gift. My colleague from Delaware is probably saying: I can't believe they didn't agreed to that. Many people on the other side are saying: I can't believe you haven't agreed.

I am not sure that offer is still going to be out here. I am troubled by that offer, I tell my colleague from South Dakota. I will tell you, there is no way in the world you are going to get another UC after today. I will be shocked if you get one that will be this generous in time, giving 4 legislative days to this particular issue.

I think I heard my colleague from South Dakota say: Wait a minute, we are being squeezed out and we haven't had the opportunity to bring up these amendments.

I think the majority leader, in making this request yesterday, was being very sincere in saying, hey, this is a way we can do this—not piece by piece, not on legislative appropriations bills, but basically we would give you 4 days beginning on July 12. I think that was a very generous offer. I wanted our colleagues to know that. If it is refused, then obviously the Patients' Bill of Rights is not going anywhere this session.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will just take 2 minutes. I thank my colleague for his generosity. I can't tell you how bowled over I am by the generosity of the Republican Party for allowing us 2 hours of discussion when, as I understood the rules, there is no limit on time, assuming you can get the floor. I am truly overwhelmed by that generous offer. And my friend from New Hampshire—

Mr. LOTT. Mr. President, if I may respond to that, I thought the best way to do it was not have any time limits.

Mr. BIDEN. Mr. President, I am impressed.

The second thing I say to my friend from New Hampshire, I find his reasoning absolutely fascinating and appealing. It is a little like saying, you know, we have been in the candy drawer for the last year, but we are going to lock it now because we think you are right; there should have been a lock on this drawer the whole time, as they walk around fat and happy and 300 pounds. I kind of like that.

I have been here 27 years, and I have never been as impressed with the generosity of the other party as I have been today. I wanted to say that and tell you how good it makes me feel.

I yield the floor.

Mr. LOTT. Mr. President, I am glad to yield to the Senator from New Hampshire for an appropriate response.

Mr. GREGG. Mr. President, I also find it amusing that the Senator from Delaware would resist so aggressively our desire to join with him on his original vote when he appears to have been right, and we are saying: Gee, you were.

Mr. BIDEN. If the Senator will yield. Put the candy back in the drawer and I would be happy to help.

Mr. LOTT. I will yield briefly to the Senator from Idaho, who did a lot of work on this sort of issue when he was in the House, and he believes very strongly we should not be legislating on an appropriations bill. He was not here when we made this mistake. He is right, I think, that we should find a way to fix it.

By the way, we are going to have a vote on this issue this summer. I am going to find that sooner or later an amendment will come up in a way that I am going to appeal the ruling of the Chair, and we are going to fix this problem, or at least we are going to vote on it. I believe when we get a vote, it will actually pass. I hope some Democrats will vote for it. I think we changed the rule XVI inadvertently without actually understanding the impact of what we were doing. It has been sitting there for 4 or 5 years, and I think it is time that we do something about it. Would the Senator from Idaho like to comment on that?

Mr. CRAPO. Yes, I would, very much. Mr. President, this is something that I haven't said to the majority leader, but 6 years ago I ran for the House of Representatives. In that campaign, I said that one of the things I thought ought to be fixed in Congress was that we should stop Congress from considering legislation with amendments that have nothing to do with the underlying bill. I used to say they should not be allowed to put nongermane amendments on legislation. I was told that maybe that is too big a word, ''nongermane.''

I think the American people understand that concept. In fact, the American people understand that one of the problems we face in Congress—both the House and the Senate—is that when a piece of legislation is considered, we don't keep it germane: we don't keep the focus of the debate on that legislation. Americans understand that is why we run into budget problems.

They understand that is why we have so many difficult problems in Congress. They can't understand why we can't come to agreement. The fact is that it is a very sensible commonsense principle that used to be in the rules of the Senate—that when a piece of legislation was brought before the Senate, an amendment cannot be put on that legislation unless the amendment is germane or relevant to that legislation itself. It is something that all Americans have an easy time understanding. Yet for some reason we have a difficult time here in the Senate honoring that basic principle.

This isn't an issue of who is right on this issue or who is right on that issue or who is going to get political advantage out of this rule. It is a rule that cuts the same way all the time, and whichever party or whichever interest would like to abuse it is the one that is going to have to face its consequences. But it is one which is a fair principle that will allow us to properly move forward.

I think it is very critical to recognize that today we are debating this issue because we are trying to finish the appropriations process, and not run into a problem a few months from now when we are not able to get the Government's budgeting process finished, to keep our commitment to the American people to keep a balanced budget, and maybe eke out an opportunity for some tax relief and yet fulfill our responsibilities to the important programs in the Federal Government.

That is the debate today. Part of that debate we are on today is the agriculture appropriations bill. Yet we have stopped the functions of the Senate now for several days, and the threat apparently is permanently, unless we shift the debate to another very important topic—the health care issue.

No one disagrees that we should debate health care issues. We even offered that we can debate those issues. The offer simply has been let's do it in an orderly and a principled way. Let's not allow amendments that are unrelated to the subject of the underlying legislation to be submitted.

I think it is very interesting that the argument was made just a minute ago that, well, you Republicans changed this rule a few years ago. I didn't. I wasn't here a few years ago when that vote was taken. I was campaigning 6 years ago, so that shouldn't be the way this Senate should operate, and it shouldn't be the way the House of Representatives operates. I have taken that position every session that I have been in this Congress. I take that position here today. We have to take the strong position on principles.

I think the American people will recognize that, and they know a lot of politics is being played as we debate here today. But if we will make our decisions on principles by which the American people should be governed, and by which this House of our Congress should be governed, and then let those principles work their way out as the various interests try to play politics on the issues, then at least we will know that the process is fair. That is what this Senate ought to do and what it ought to return to.

I think it is time for us to resolve this impasse by returning to the kind of governing principles that we should follow as a Senate.

I thank the majority leader for yielding and giving me this opportunity.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I have some procedures I would like to go through, and then we will put in a time for morning business, and then Senators can engage on their own.

I think we should go on with the people's business of passing our appropriations bills.

I will continue to work with Senator DASCHLE and all of those who are interested in trying to see if we can come up with some agreement to handle a Patients' Bill of Rights separately and aside from the appropriations bills in a specified period of time and an acceptable way. That is obviously not easy. But we have found solutions to complicated problems before. Hopefully, we can find one this time.

CLOTURE MOTION

Mr. LOTT. Mr. President, so we can get a focus on where the problem is, and so everybody will understand that what is being affected here is the regular appropriations process, I send a cloture motion to the desk to the pending agriculture appropriations bill.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the agriculture appropriations bill:

Senators Trent Lott, Thad Cochran, Ben Nighthorse Campbell, Susan M. Collins, Craig Thomas, Mike Crapo, Kay Bailey Hutchison, Robert F. Bennett, Larry E. Craig, Connie Mack, Charles E. Grassley, Christopher S. Bond, Richard C. Shelby, Tim Hutchinson, Ted Stevens, and Mike Enzi.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to S. 1143, and I send a cloture motion to the desk on the transportation appropriations bill.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the Transportation Appropriations bill:

Senators Trent Lott, Pete Domenici, Paul Coverdell, Thad Cochran, Pat Roberts, Jesse Helms, Chuck Hagel, Judd Gregg, Ted Stevens, Slade Gorton, William V. Roth, Jr., Bob Smith of New Hampshire, Craig Thomas, Mike Crapo, James M. Inhofe, and Frank H. Murkowski.

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

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

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY APPROPRIATIONS, 2000—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. Mr. President, there was a lot of discussion earlier today about the importance of law enforcement agencies and the need for the Federal Government to be a part of fighting crime and drugs in our schools in our streets and our neighborhoods. Therefore, I move to proceed to S. 1217, the Commerce, Justice, and State Department appropriations bill, and I send a cloture motion to the desk on this important bill.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 153, S. 1217, the Commerce, Justice, State appropriations bill:

Senators Trent Lott, Ted Stevens, Fred Thompson, Judd Gregg, Kay Bailey Hutchison, Thad Cochran, George V. Voinovich, Paul Coverdell, Conrad Burns, Pete Domenici, Christopher S. Bond, Mike DeWine, Slade Gorton, John Ashcroft, Frank H. Murkowski, and Jeff Sessions.

Mr. DASCHLE. Mr. President, will the leader yield for a question prior to proceeding?

Mr. LOTT. I will be glad to yield.

Mr. DASCHLE. The leader mentioned the importance of the Commerce-State-Justice bill for purposes of dealing with the crime issue, and all the other issues. I would be interested, if the majority leader could tell us who the conference nominees would be for the conference committee on the juvenile justice bill. Are we prepared to select the conferees on the juvenile justice bill?

Mr. LOTT. I believe we are. I will need to talk to Senator HATCH. We would have to confer on the Senators who would be conferees. But it is my intent to have conferees appointed on that bill. When we get through here, I would be glad to talk to the minority leader about that.

Mr. DASCHLE. I thank the majority leader.

Mr. LOTT. Mr. President, I withdraw the motion to proceed.

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

FOREIGN OPERATIONS, EXPORT FINANCING APPROPRIATIONS, 2000—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to S. 1234, the foreign operations bill, and I send a cloture motion to the desk on that bill.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 159, S. 1234, the Foreign Operations appropriations bill.

Senators Trent Lott, Ted Stevens, Fred Thompson, Richard G. Lugar, Judd Gregg, Kay Bailey Hutchison, Thad Cochran, Mike DeWine, Conrad Burns, Pete Domenici, Christopher Bond, Slade Gorton, John Ashcroft, George V. Voinovich, Frank H. Murkowski, and Paul Coverdell.

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

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

CALL OF THE ROLL

Mr. LOTT. Mr. President, with all of that in mind, I had no other alternative but to file these cloture motions to show the American people just how

the funding for our Government agencies is being held up, and not the least of which, of course, is the Department of Agriculture bill. But under rule XXII, these votes will occur in a stacked sequence on Monday, unless changed by consent. And I ask unanimous consent that these cloture votes occur beginning at 5:30 on Monday, and that in each case the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. So those four cloture votes will occur in sequence beginning at 5:30 on Monday.

MORNING BUSINESS

Mr. LOTT. 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.

Mr. KENNEDY. Mr. President, did the leader ask consent?

Mr. LOTT. That we go to morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Democratic leader.

FINDING A SOLUTION

Mr. DASCHLE. Mr. President, I just want to reiterate our desire to see if we can find a way with which to address this issue.

I will reiterate that, if we have the opportunity to present 20 amendments up or down, I will be prepared to go to my colleagues and say: Look, we can live with that. I want you to cooperate and find a way in which we can have a good debate with 20 amendments free-standing with up-or-down votes. We can live with that. We could even live with a time certain so long as we have a good debate on those amendments with a vote on those amendments prior to the time we reach the end date. But that is a simple request. It is a simple desire to find some resolution.

Our colleagues have been more than willing to cooperate in that regard. I hope we can do it. Our door is still open. We will work to see if we can't find a way to accomplish that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thought we would be going back to the amendment of the Senator from California. I hope those Americans who have been watching the Senate for the last few minutes—and also for the past few days—have no doubt in their minds what this is all about. This hasn't got anything to do with the Senate rules at all or Senate procedure. It is about a very fundamental and basic issue; it's about whether the Senate of the United States is willing to take up the Patients' Bill of Rights, the core of which states that decisions affecting the medical treatment of an individual are going to be decided by the doctors and trained medical professionals and not by gatekeepers or insurance adjusters or insurance accountants. That is the basic issue.

We can talk about 2-hour amendments, 4 days, a week, we can talk about four cloture motions, but the bottom line is that the Republican majority is refusing to permit the Senate to go about the people's business and schedule a Patients' Bill of Rights and permit the kind of orderly procedure that has been a part of this body for almost 200 years. That is what is going on here. Then they have the effrontery to talk about how they are going to change the rules in order to try and deny any opportunity to have a measure of this kind brought before the Senate.

Let's be very clear what this is about. This is about something which is basic and fundamental to the families in this country. For 2 days, the Senator from California has been trying to bring up her amendment and get action on it. She has been precluded from doing so. The last action this evening—morning business at 5:10 on Thursday evening—has again precluded a debate and vote on her amendment. She was here yesterday at 9:30 in the morning. It doesn't take a Member of the Senate to understand what is going on. She is being denied a vote on the key issue of this whole debate, and that is whether insurance companies which cover American families are going to have to use a definition of what is ''medically necessary'' that will reflect the best medical training, judgment, and skill in the United States. That is what her amendment is.

I have seen a lot of actions taken in order to preclude a Member of the Senate from getting a vote, but to go through the process of having four cloture votes next Monday, all in an attempt to deny the Senator from California an opportunity to get an up-or-down vote on her amendment, is a very clear indication of what is going on.

This isn't about process. This is about substance. What kind of quality health care programs are we going to have in the United States of America?

We are being denied the opportunity to make that decision. We were denied it last year and we are denied it again this year. We can listen to all the other bills left to do this year, and the Patients' Bill of Rights should be one of them. We tried to get it up last year, but we couldn't get it up under regular order. We have tried to get it up this year, but, again, we can't get it up under regular order.

Earlier today, we heard reference to the process and procedure that was followed during Kassebaum-Kennedy. Let me remind my colleagues that the consent agreement to consider the Kassebaum-Kennedy legislation was reached on February 6 of that year. It said the bill must be brought up no earlier than April 15 and no later than May 3, with no time agreements or limitations on amendments. And we passed it, unanimously, under those terms.

It seems to me that the last two days provide a very clear example of the majority effectively, I believe, abusing the process and procedures of the Senate, to deny the debate, discussion and the vote on an important issue in order to protect themselves on the issue of health care. We should be protecting the American people. They are going to understand it. There can be no other interpretation of what is happening on the floor of the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I hate to see my colleague and friend from Massachusetts get so exercised—and he happens to be incorrect.

He has to know the rules of the Senate very well. The proposal the majority leader was propounding is very fair. The Senator from California wants a vote on her amendment. I will be very frank. The way she can get a vote on her amendment is to move forward and accept the offer already made. She could offer her amendment, for example, as a second-degree amendment. The Senator can get a vote on her amendment.

The way to do this is not on an appropriations bill. The Senator from Idaho is correct. We shouldn't be doing this on an appropriations bill. Everyone in the Senate knows it. This is not the way to legislate.

We ought to be able to manage the Nation's business in an appropriate manner, not coming up with the Patients' Bill of Rights saying: We will do this piece by piece; we have 40 pieces and we will do it on various bills, bills that are going to go to conferees.

Conferees know absolutely nothing about this issue. They have never had a hearing on this issue, never dealt with this issue. Asking them to legislate on it is wrong. It is not going to happen. It will not pass; it will not become law. We are wasting our time.

It is not anybody's intention on this side to filibuster, to deny the opportunity to offer amendments. The Senator can have the opportunity. Yes, it is quite likely there will be amendments offered in the second-degree, but a lot of amendments wouldn't be offered in the second-degree. Likewise, second-degree amendments are available to Members on both sides. That should be very apparent.

The point is I am a little frustrated by people saying we are not being treated fairly. The Senator has been offered a most generous proposal where Senators could offer lots and lots of amendments and get votes on those amendments. It doesn't take a legislative genius to make that happen.

I encourage our colleagues to see if we can't work together and make this happen instead of offering this piece by

piece on an agriculture appropriations bill, even though we know it will not become law.

I think there is a right way to legislate. This is not the right way to legislate. I hope we will work together to come up with something acceptable. I think there has been put off a more than generous proposal from on our side. We have been amending it for the last 2 days, trying to accommodate legitimate concerns. Somebody said originally it was 3 hours on each amendment. Some people say we shouldn't have any debate limit on amendments. I happen to think that is probably closer to correct when considering the magnitude and the scope of some of these amendments.

I urge our colleagues to step back and lower the rhetoric, not get so exercised, and see if we can't come up with an appropriate legislative way to solve this problem, see if we can't come up with a legitimate, positive, legislative approach that will help solve some of the problems that have been acknowledged, without dramatic increases in consumer costs and increases in the number of people who are uninsured. That is what I prefer. The hotter the rhetoric gets, the less likely that is to happen.

We need to work together in order to make positive legislation happen. The Democrats alone will not pass legislation; the Republicans alone will not pass legislation. Nothing will become law if it is strictly partisan.

I urge my colleagues to step back a little bit and look at some of these unanimous consent requests and see if we can find an appropriate vehicle and manner to legislate on this important issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I will take this opportunity to respond to the distinguished—I was going to say the difficult Senator, but I mean the distinguished Senator from Oklahoma.

I feel caught on the horns of a dilemma. On one hand, what I am seeing is this is never going to happen on an agriculture appropriations bill. On the other hand, what I am hearing is, you have an offer to offer your amendment; it will be second-degreed; it will be defeated; there won't be a real opportunity to have an up-or-down vote on the amendment.

Our leader, I believe, is willing to come to a reasonable agreement whereby the main points of the Patients' Bill of Rights can be debated on the floor with an agreement that amendments be voted up or down within a certain period of time. But he is very astute. I do not think he wants us to find out that someone comes on the floor, takes up all the time, there is no opportunity for an up-or-down vote on the amendments, there is one vote en bloc, and then the majority leader can come on the floor and undo it all after it is over.

What we are asking for, and maybe now is as good a time as any—I have learned there are times when you go to the wall and there are times when you do not go to the wall, and it is important to know the difference in the timing.

Let me share with the Senator one story that happened at UCLA, which is why I feel so strongly about this Senate passing legislation that prevents arbitrary interference with the physician's treatment and the setting of that treatment, in other words, the hospital length of stay. If the Senator wants, I can give him the doctor's name and he can verify it.

This is about a neurosurgeon who performed surgery at the UCLA Medical Center to remove a brain tumor. The patient's managed care plan covered 1 day in the intensive care unit. After that day, the patient had uneven breathing and fluctuating blood pressure and heart rate. The doctor wanted her to stay in the hospital another day for monitoring. The HMO utilization reviewer consulted the guidebook that said only 1 day was allowed in the ICU, so she was denied the extra day. The doctor thought it would be medically unethical to move the patient out of the ICU, so he kept her there. The next day, the HMO called again and said the cost of the second day would be deducted from the surgeon's fee.

That is the kind of thing that is happening. We have to put an end to it because the result is going to be terrible for the practice of medicine. There are now doctors voting to unionize, to collectively bargain. I know some people have said with some disdain: Oh well, that's just over their wages. I am here to say it is not.

My own doctor at Great Mount Zion Medical Center, now part of the University of California, after 30 years of practice, says he has never been so disillusioned, never been so disappointed. He said the morale of doctors is so low from being countermanded all the time by medical plans and having to hassle to get a drug approved. Using this kind of disincentive of, if you believe a patient belongs in ICU after brain surgery for an additional day, we are going to deduct it from your fee—what kind of a practice of medicine is that?

These are big issues, I say to the Senator from Oklahoma, because, in my view, they are life-or-death issues. We have a chance to address it. I do not want to legislate on an agriculture appropriations bill, but, on the other hand, I believe to the depth and breadth and height of me in this amendment. Other colleagues have other amendments.

The time has come to have a debate on the issue. Our leader will negotiate a fair agreement. I really think it is in your hands. We want an up-or-down vote on these amendments.

This is not an amendment that has been just quickly put together for what someone might say is a political purpose. This amendment has been worked on, it has been vetted, and it is supported by 200 organizations and supported by every single medical organization in this country—nurses, the American Cancer Society, the American Heart Association, the American Lung Association—across the board.

No one should be afraid to keep a patient, following brain surgery, in intensive care for an extra day. The gall of the health insurance plan to say, OK, we are deducting it from the doctor's fee. I hope the Senator will have some reaction to this, because I know that is not the way he wants to see medicine practiced in this country.

I can go on and on. Perhaps because my State is such a big managed care State, there are so many examples. They need to be stopped, and there is no better time than right now. All we need is an agreement that will allow some amendments—leave it up to our leaders—up-or-down vote, and prevent the opportunity from sidetracking that up-or-down vote. At the end of this, we will have something.

Senator KENNEDY was absolutely right. I remember all the wrangling over the Kennedy–Kassebaum bill, and then finally, bingo, it just got done. That is what we are asking for now. That is what the people of America are asking for now as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I appreciate the comments of my colleague from California. She mentioned timing. I do not think the time is now. I do not think it should be on the appropriations bill. We have been pretty straightforward in saying we will give you a few days after the Fourth of July break. Basically, that means next week we will be working on other appropriations bills, and that means the following week we will be working on the Patients' Bill of Rights.

I will tell my colleague—I can easily tell her, and anybody else—the Senator can orchestrate a way to get a vote on her amendment. It can be done. Her amendment can be a second-degree amendment, I tell my colleague. I have already stated we can limit the agreement to one second-degree amendment instead of two. There are many of us willing to do that. The way not to do it, in my opinion, is piecemeal on 20 different legislative items—some on this appropriations bill, some on that appropriations bill—knowing those appropriators are going to conference and will say: What in the world are we going to do with medical necessity? We don't know what that is.

I appreciate the fact she mentioned a brain surgeon who said a patient should stay in a day longer and some managed care idiot, or bureaucrat, said no. I do not happen to think the legislative solution proposed in the Senator's legislation is the right fix. I happen to think the better idea is to give an internal appeal that can be done immediately. It can be appealed. If it is

not overturned—the example the Senator cited I think would be overturned immediately, and, if not done immediately, it could be done by an external appeal done by outside peer review experts. They do not have to go to court, they do not have to sue, and they have immediate change. That is the better process.

My point is, as far as process is concerned now, we should not be debating this on an appropriations bill. Offering a few days beginning on July 12 is more than generous. I will try to be flexible in further negotiations, but the give is just about given when, if the Senator looks, we have just about 8 weeks to legislate before the end of the fiscal year.

I think the majority leader has been very, very generous. I will work with my colleague to see if we cannot come to a constructive conclusion. I appreciate her willingness to do so.

Mr. President, I yield the floor.

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

Mr. NICKLES. I will be happy to yield.

Mr. SCHUMER. I thank the Senator and appreciate everything he said and the graciousness with which he said it.

I will make two points in terms of my question. I am a freshman Senator. I am well familiar with the process of the House. That is something I wished to escape. It is one of the reasons I ran for the Senate. The reason was that we could not debate at any time appropriations bills or authorization bills without really the consent of the Rules Committee, which was controlled by the Speaker 11 to 5. We could not get anything done.

From what I understand in listening to my colleagues and being here myself, this has been like a pressure cooker. On bill after bill, bills that we have done, instead of being given the chance to offer amendments—we did some authorizing bills, but then on a good number of them—Y2K, for instance—the tree was filled. In other words, the majority leader offered an amendment and then put on a second-degree amendment, and then another amendment and put on a second-degree amendment. We were not permitted to, say, add a Feinstein amendment or an amendment that I hoped to offer about scope or other amendments as well.

The frustration on our side—I began to hear my colleagues, who have been here many years longer than I have been, start saying that this is just like the House, that in the past the right of the majority was to sort of set the agenda—chair the committees, call the hearings—but in the Senate, in its grand traditions, the minority always had the right to offer some amendments.

As we moved through the process this year, through a bunch of legislative maneuvers—all within the rules but maybe not within the previous traditions of the Senate—we were not allowed to do that.

So we came to the conclusion that, on something as important to so many of us as the Patients' Bill of Rights, we would not have the opportunity, under any circumstance, to offer those amendments.

My guess is that the kind of offer that was made, which our minority leader has outlined why we think it is inadequate, we never would have gotten to that point if there had been an open process and we had been allowed to offer amendments as we went through that process.

I just ask the majority whip, who is a Senator I have a great deal of respect for—and I understand we have different views on the Patients' Bill of Rights, but he is coming at this and trying to be very fair—what can be done to avoid the kinds of frustration that my colleagues on this side of the aisle are genuinely feeling on the Patients' Bill of Rights or on so many other issues, that we will not have any opportunity, any time, to offer amendments on issues important to us, unless we sort of force the issue, as we have done this week?

I yield. That is my question to the majority whip.

Mr. NICKLES. I tell my friend, and colleagues, there is a lot of work to be done. I think it is in the interest of all Senators to work together. I do not think that necessarily it is really constructive to say we are going to shut down the Senate for a week, as has actually happened the last couple days, unless we get our will. I would like us to work maybe a little more off the floor and a little more behind the scenes and say: What can we do?

That will take cooperation. It will take saying, We are willing to take up this bill and finish it by tomorrow. Then you do not have to get into a whole lot of extended discussion and maybe a lack of trust. Because I heard some people say, well, wait a minute. Under this agreement that we proposed, somebody could filibuster the bill, and you could only have one or two amendments.

That was not our intention. I can tell my colleagues that was not my intention. Do we want to have 25 really tough votes? No. But votes go both ways.

But my point being, there is no one I know of who was saying we are going to have somebody come in and filibuster this bill. Nobody was talking about doing that. Maybe we need to have a little more faith and a little more collegiality and willingness to work together.

This is an item of interest to a lot of people. There are a lot of people on this side who would like us to pass a positive bill.

I have also stated my very sincere conviction that we should not pass a bill that is going to increase health care costs a total of about 13 or 14 percent, after you add in inflation. I really mean that. I am very sincere about that.

So we may have some differences, but, I have not totally given up on the idea of us working something out.

I will suggest the absence of a quorum. Maybe something else can be done to accomplish that.

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

Mrs. FEINSTEIN. I ask the Senator, before you do, may I respond to one quick thing you said on ''medical necessity''?

You made the comment: Nobody really knows what ''medical necessity'' is. Let me just very briefly read you the definition because it is a standard definition. The term ''medical necessity'' or ''appropriateness'' means, with respect to a service or benefit, ''a service or benefit which is consistent with generally accepted principles of professional medical practice.'' That is the definition of ''medical necessity'' or ''appropriateness'' in this bill.

Mr. NICKLES. Thank you.

Mrs. FEINSTEIN. Thank you very much.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. In morning business, I ask unanimous consent I be given 10 minutes to address the Senate.

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

Mr. SCHUMER. Thank you, Mr. President.

PATIENTS' BILL OF RIGHTS

Mr. SCHUMER. Mr. President, I would just like to first thank my colleagues from South Dakota, Massachusetts, and California for bringing up this issue.

Let me just say that, again, as I travel across my State, the issue of the Patients' Bill of Rights is one that is foremost on the minds of my constituents. I have heard their pleas and complaints. I have heard about horrible situations that people are forced into. I have heard about the fears of tens of thousands of people in each community who do not have a problem now with their HMO, but having heard about a relative, a friend, a professional colleague who has, they worry about having one themselves.

So the bottom line is a simple one. We wish to have a free and open debate. That is our position. It is more important than many of the issues we were debating.

I heard the majority leader say we had to do the foreign operations bill. That is a bill that is important to me and to many of my constituents but hardly one as important as the Patients' Bill of Rights.

So what we are saying on this side is the following: That there has been such a breakdown in the patient-doctor relationship, and with the intrusion of that patient-doctor relationship by an army of accountants and actuaries and bureaucrats who are making decisions that should be made by doctors and nurses and hospitals, that something has to be done.

We disagree on cost issues. The Senator from Oklahoma thought it would raise costs 13, 14, 15 percent. The Senator from Massachusetts has a CBO estimate—CBO is impartial—that says it would be the cost of a Big Mac a month to a family. But the very least is that we should be debating that issue, debating it fully and openly.

The Senator from Oklahoma has said that it was not his intention, when he offered his proposal, that someone filibuster and take the whole 30 hours or the whole week just filibustering.

That may well be the case, but there may be one of the 100 Senators who feels so strongly against this issue that he would take to the floor to filibuster. Unless we can get in the confines of the agreement that we will be able to vote on the very important issues that are part of the Patients' Bill of Rights, then how can we agree? Because if we were to agree now—and there are so many thousands of our constituents on whose hopes and even prayers this legislation rests—and we were not to get those votes, and instead someone would filibuster, they would all think we had let them down.

So the bottom line is a very simple one. The bottom line is, yes, we can come to an agreement, but the agreement, from our point of view, needs to allow open debate and votes on a whole series of issues. My guess is we won't win every one, but my guess is we will win a good number.

To have an agreement that might allow one person to filibuster the whole time, even though it may not be the majority whip's intention, to have an agreement that would not allow the major issues to be not only debated but voted upon would be a serious miscarriage of the hopes of millions of Americans who wish to see the patient-doctor relationship restored. It would have been much better if we had done that debate this week.

As I mentioned to the majority whip, the feeling on this side of the aisle of frustration, that the open process on which the Senate has prided itself for 200 years would no longer be allowed, led to our view that we would make sure and do everything in our power within the rules of the Senate to see that open debate and votes on the Patients' Bill of Rights occurred.

I think we are doing a service to our constituents. I think this is what they sent us to the Senate to do. I will be doing everything I can, helping our minority leader, helping the senior Senator from Massachusetts and all of my other colleagues who care so much about this issue, to see that we get that open, full debate and the votes on the very important issues of the Patients' Bill of Rights to which our constituents are entitled.

I thank the Chair, and I yield back the remainder of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, are we in a quorum call?

The PRESIDING OFFICER. We are in morning business.

SENATE DENIAL OF SUPPORT FOR STEELWORKERS

Mr. WELLSTONE. Mr. President, on Tuesday, the Senate voted 57–42 to refuse debate on legislation that would provide some support to steelworkers.

I think those of us who wanted to provide some protection to steelworkers and their families against the illegal dumping of steel from foreign exporters to our country lost mainly because of the White House, which used import data from the month of April and convinced a lot of Members that the steel crisis is over.

Here we are, 2 days later, and there are new, important numbers out for May. We find out 2 days later that the steel crisis is not over. In fact, overall steel imports went up 30 percent from April to May. Most of the increase comes from the import of various kinds of semifinished steel, the very products that our taconite mines in Minnesota compete against. Imports of blooms, billets, and slabs are up a whopping 122 percent. Let me repeat that: 2 days ago the administration was telling us there was no crisis; the surge of imports is over. Now we find out a 30-percent surge of imported steel, the latest figures today, over a 1-month period from April to May, and for billets and slabs and blooms, a 122-percent increase in imports.

This is a disaster. It is a disaster for the women and men who have lost their jobs on the Iron Range and may never get them back. It is a disaster for the workers who are hanging by a thread. It is a disaster for their husbands and their wives and children. For them the steel crisis is not over. If anything, the steel crisis is getting worse.

The question I ask my colleagues who voted against our bill, who voted against even debating our bill, is: What next? To the administration, I say you were successful in defeating the Rockefeller bill. Now what do you propose? Are we going to simply give up on the steel industry?

We cannot give up on the steel industry, and we cannot give up on the iron ore industry in our own country. We have to do something.

I am troubled by the arguments that were made in our Senate debate. I am troubled by some of the newspaper opinion pieces, because they seem to be suggesting that we ought to just give up on this industry. They seem to be suggesting that the extraordinary surge of steel imports, the dumping of cheap steel, the illegal dumping of steel sold below cost of production in our country is actually good for the economy, good for the economy because it keeps prices down in other sectors of our economy.

If that is the case, we should actually encourage foreign countries to dump on our markets. If we want to lower steel prices, then we shouldn't have any antidumping laws. We should repeal them all. We shouldn't even have any antidumping laws on the books. If that is the case, we ought to get rid of a section 201 law which provides for WTO legal quotas to import surges, the likes of which we have been experiencing. The fact of the matter is, we have had this surge of imported steel, and the argument is, it is good for the country because it keeps prices down.

That means we are not going to have a steel industry. That means we will not have an iron ore industry. That means many of these workers and their families are going to be spit out of the economy. Our workers can compete with anybody, any place, any time, anywhere. But they cannot compete with a surge of illegally dumped imports. Our steelworkers, our iron ore workers are the most efficient in the world. They can compete with fairly traded steel, but they cannot compete with this.

I am real worried, because I think this administration and I think too many of my colleagues in the Senate have sent the following message when it comes to trade policy: If it is a top contributor, Chiquita bananas, we are there for you. We will make sure that we put on a real strong import quota. When it comes to investments of Wall Street investors, when they go sour in Korea or Indonesia, Thailand or Mexico, Brazil or Russia, we will pick up the tab.

But when the global economic crisis boomeranged on American steelworkers, the message from the administration and the Senate was: You get stuck with the bill.

The crisis is not over. The May import numbers prove it. The question for all of you who oppose the Rockefeller bill, the question for this administration, a Democratic administration that is supposed to care about working people is: What do you propose to do now?

Let me just repeat this one more time. I was thinking to myself, I wonder why the administration hasn't released figures, since they were making the case that the crisis was over. Surely they will release the May figures. They must have had them a few days ago. Two days ago, one of the major arguments used for opposing our legislation was ''the crisis is over.'' Now we find out 2 days later, overall steel imports are up 30 percent from April to May, and imports of blooms and billets and slabs, which compete against our taconite on the Iron Range, are up 122

percent. We didn't get those figures from the administration 2 days ago. I think I know why.

I say to the President, I say to the administration, and I say to Senators who voted against an opportunity to even debate this legislation: The crisis is not over. The statistics prove it. My question is: What do you propose to do now? What do you propose to do now?

Mr. President—not the President that is presiding on the floor of the Senate, but Mr. President of the United States of America—what do you propose to do now? Your administration told us 2 days ago this crisis was over. Now we have the figures: 30 percent increase in imports of steel, 122 percent in imports of blooms, billets, and slabs. It is going to be an economic convulsion for the Iron Range of Minnesota. It is going to be an economic convulsion for steelworkers, illegally dumped steel. We will compete against anybody. But if you are going to make the argument that we should not do anything about illegally dumped steel, that we can't provide any protection for our workers, that we can't have an administration and a Government that negotiates a fair and a tough trade policy that provides protection to our workers, then what in the world are we here for?

I speak with a little bit of—not bitterness but outrage. I heard what was being said just two days ago. Now the numbers have come out. Now we know we have this crisis. Now we know we have this surge of imports. It is illegally dumped steel.

My question for the President of the United States of America is: What are you going to do? You defeated our legislation. What are you going to do now?

I am not going to give up on this. I hope the steelworkers and their families won't give up on this. My suggestion is that we need to have a meeting with the President and the administration because I have to still believe that they are concerned and they will be willing to take some action. We need to talk about what kind of action we will take soon, because if we don't, there are going to be a lot of broken dreams, a lot of broken lives, and a lot of broken families all across our country, including in Northeast Minnesota, the iron range of Minnesota. I can't turn my gaze away from that. I can't quit fighting because of the vote a couple days ago.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I don't want to be redundant, but I would like to continue the statement I began to make earlier this morning. Let me quickly put it in perspective.

The statement further explains an amendment that I have at the desk, which essentially says that a group health plan or an insurance issuer may not arbitrarily interfere with, or alter, the decision of the treating physician with respect to the manner or the setting in which particular services are delivered if those services are medically necessary or appropriate.

It then goes on to define ''medically necessary'' as ''that which is consistent with generally accepted principles of professional medical practice.'' The amendment, of course, means that the doctor can determine what is a medically necessary length for a hospital stay, and the doctor can determine the kind of treatment or drug the patient can be best treated with.

I know some people wonder why am I so vociferous about physicians making medical decisions. California has the largest number of individuals in managed care. We have around 20 million people in managed care plans in California.

I have heard of many different cases. Let me just give you one other case—I just talked about the person with the brain illness. I can also give you the case of the Central Valley man, 27 years old who had a heart transplant and was forced out of the hospital after 4 days because his HMO would not pay for more days. That constituent of mine died. That is the reason I feel so strongly.

Additionally, I know—and the Washington Post this morning documents—that doctors are increasingly frustrated, demoralized, and hamstrung by insurance plans' definitions of medical necessity. An American Medical Association survey reported in the March 2, 1999, Washington Post, quoted an AMA spokeswoman who said that some managed care companies have begun to define explicitly what treatments are ''medically necessary,'' and they have chosen to define them in terms of lowest cost.

She says:

> Doctors used to make that decision solely on the basis of what was best for the patient.

She stressed that doctors are unhappy that managed care organizations are ''controlling or influencing medical treatment before the treatment is provided.'' She said, ''Denials and delays in providing care directly harm the health and well-being of the patients.''

A fall 1998 report found that ''patients and physicians can expect to see more barriers to prescriptions being filled as written,'' according to the Scott-Levin consultant firm, because HMOs are requiring more ''prior authorizations'' by the plans before doctors can prescribe them.

Then, as I spoke of a little earlier, there is the issue of financial incentives, another form of interference in medical necessity decisions. In November, the New England Journal of Medicine pointed out:

> Many managed care organizations include financial incentives for primary care physicians that are indexed to various measures of performance. Incentives that depend on limiting referrals or on greater productivity applies selective pressure to physicians in ways that are believed to compromise care.

That is what we are trying to stop.

> Incentives that depend on the quality of care and patients' satisfaction are associated with greater job satisfaction among physicians.

Let me describe how Charles Krauthammer put it in writing in the January 9, 1998 Washington Post under the headline, ''Driving the Best Doctors Away'':

> The second cause of [doctors leaving the profession] is the loss of independence. More than money, this is what is driving these senior doctors crazy: some 24-year-old functionary who knows as much about medicine as he does about cartography demanding to know why Mr. Jones, a diabetic in renal failure, has not been discharged from the hospital yet. Dictated to by medically ignorant administrators, questioned about every prescription and procedure, reduced in status from physician to ''provider,'' these doctors want out.

Mr. President, that is a sorry commentary, and it is the truth.

One of my deepest interests is cancer. I cochair the Senate Cancer Coalition with the distinguished Senator from Florida, Senator Connie Mack. Let me quote from a report of the President's Cancer Panel:

> Under the evolving managed care system, participating physicians are increasingly being asked to do more with less—to see a greater volume of patients and provide significantly more documentation of care with less assistance or staff. In addition, managed care has dictated a major shift to primary care gatekeepers who are under pressure to limit referrals to specialists and care provided in tertiary care facilities, and may be financially rewarded for their success in doing so.

Nancy Ledbetter, an oncology nurse and clinical research nurse coordinator for Kaiser Permanente said, ''. . . necessary care is being withheld in order to contain costs.'' This is from the June 16, 1999 Journal of the National Cancer Institute.

A breast cancer surgeon wrote me:

> Severe limitations are being placed upon surgeons in giving these women [with breast cancer] total care . . . Patients feel that their care is reduced to the mechanics of surgery alone, ignoring the whole patient's medical, emotional, and psychological needs.

Surely, one of the oldest axioms of medicine, and the way my father used to practice medicine, is that you can't just treat the wound, you have to treat the whole patient as an individual, as a human being.

In my State, again, over 80 percent of people who have insurance are in managed care. Forty percent of California's Medicare beneficiaries are in managed care. Some say Californians have been pioneers for managed care. Some even say Californians have been the Nation's ''guinea pigs.''

The complaints don't abate: delaying diagnoses and treatments as tumors grow; trying the cheapest therapies first, instead of the most effective; refusing needed hospital admissions; refusing to refer patients to specialists who can accurately diagnose conditions and provide effective treatments;

we hear complaints about shoving patients out of the hospitals prematurely, against doctor's wishes. We hear complaints about misclassifying medically necessary treatments as ''cosmetic.''

We hear about plans demanding that doctors justify their care and second-guessing doctors' medical judgments.

We have had heard about doctors exaggerating the patient's condition to be able to give them a certain drug, or keep them in a hospital beyond a certain length of time, to get plans to pay for care.

I hope this amendment can restore some balance to the system by empowering patients and the medical profession to provide the kind of quality medical care that people not only pay for but that they deserve.

That is why I feel so strongly about this amendment.

Again, I harken back to the day when I had the first example in 1997 of a woman in a major managed care plan undergoing an outpatient radical mastectomy—7:30 in the morning, surgery; 4:30, out on the street with drains hanging from her chest, and unable to know where she was going.

That is not good medicine.

I can only end my comments on this amendment by saying that the amendment is sincerely presented.

The amendment is the heart of a Patients' Bill of Rights.

The amendment should not increase premium costs.

The amendment is what the American people expect.

And the amendment simply says that an insurance company cannot arbitrarily interfere with the doctor's decision with respect to treatment or hospitalization.

I don't think that is too much to ask this body to legislate and to state unequivocally, and I think every single person in my State, as well as every State, will be much better off once this is accomplished.

Let me end by saying that I believe that Senator DASCHLE is willing to work out an agreement which allows a number of amendments to come to the floor and be debated, provided that these amendments can be voted up or down.

I suspect that what we are going to really end up with is a bipartisan Patients' Bill of Rights. I suspect that if we can get this unanimous consent agreement, we will find that there will be many on the other side of the aisle who will vote for this amendment, and there will be some of us who will vote for some of the amendments on the other side as well.

It seems to me that when you have a situation whereby the physicians in America have reached the point where they have decided to unionize and collectively bargain that this should be a very loud call that all is not well with the practice of medicine in the United States of America.

It should be a very loud call for a unanimous consent agreement which will allow us, on the floor of the Senate, to work out a series of amendments which can provide the kind of quality care that the people of the United States are entitled to, and that certainly 20 million Californians in managed care are.

I thank the Chair.

I yield the floor.

PLEDGE OF ALLEGIANCE RESOLUTION

Mr. FEINGOLD. Mr President, I want to express my support for the resolution, which was adopted by the Senate yesterday, to begin a new tradition in this distinguished body: to begin our days by saying the Pledge of Allegiance each morning in this Chamber. There were about ten of my colleagues on the floor this morning to inaugurate this new tradition, and I only wish there could have been more to join us.

We will pay tribute to our flag, the greatest symbol of our freedom, in the Chamber where we are sworn to uphold the very freedoms the flag symbolizes. There can be no more fitting tribute to our Constitution than the free and unfettered expression of patriotism that the Pledge of Allegiance represents.

Today in the Senate, we honor the flag. In contrast to this voluntary celebration of our flag, the other chamber today may vote on an amendment to our Constitution that asks us to turn away from the freedoms we cherish in order to protect our flag, in effect to compel reverence for the flag. This amendment, in a misdirected attempt to protect a cherished symbol, instead tears at the very fabric of our freedom.

In the past, I have walked in the Appleton, WI, parade on Flag Day. I am told that it is the largest Flag Day parade in our country—it is certainly one of the best. As I saw the faces of those people, those Americans, as they waved the flag, filled with pride in our great nation, I knew then not only that patriotism shouldn't be legislated, but that it doesn't need to be. It is in this Chamber and in the hearts and minds of millions of Americans across this country. Again, I celebrate the effort to pay tribute to the flag, and the freedom it represents, in this Chamber each day. I only hope when and if the amendment that threatens that freedom is considered on this floor, we will remember the Pledge of Allegiance, and remain true to the liberty it speaks of, and that all of us hold so dear.

CUBA

Mr. SPECTER. Mr. President, during the Memorial Day recess, I spent two days in Havana, Cuba, from June 1 to 3. I met with numerous Cuban officials, including a marathon six-and-a-half hour session with President Fidel Castro, with Cuban human rights dissidents, with religious leaders, with several foreign ambassadors and with our U.S. team. I am convinced there are a number of steps we can take, pursuant to our existing U.S. policy, to create closer people-to-people relations with Cuba. Sharing medical research, especially on immunizations, would be appropriate, between the National Institutes of Health and the Cuban Ministry of Health. Former Gen. Barry McCaffrey, head of U.S. drug policy, had suggested to me that we should work closer with the Cuban government on drug interdiction, and I think he is right.

Relations between our two countries, only 90 miles apart, are almost non-existent. We have an embargo and a boycott. We have no exchange of ambassadors, and the limited coordination between our governments does not extend beyond very limited cooperation on drug interdiction.

I believe it is worthwhile to share with my colleagues some of my findings and impressions from my trip. The issue of the embargo is complex, and I am not yet ready to advocate a position. But there are other issues, such as the benefits of increasing contact and cooperation, which merit comment at this time.

Upon arrival in Havana about 2 pm June 1, we were met by Jorge Lexcano Perez, President of the Commission on International Relation, and Jose Manuel Barrios, Director of the Ministry of Foreign Affairs' U.S. Department. Primarily, all parties agreed that both nations would profit from better relations between the two.

I met next for more than an hour with our country team at the U.S. Embassy. We discussed the steps needed to normalize relations between our two nations and the dynamics of Cuba's government and economy, including the booming black market. We discussed the social climate, including religious freedom and human rights concerns.

I met next with Dr. Jose Miller, President of Casa de la Comunidad Hebrea de Cuba (The Jewish Community House of Cuba) and leader of Cuba's Jewish community, and with Adela Dworin, Dr. Miller's Vice President. Dr. Miller maintained that freedom of religion has been ''no problem'' in Cuba for both Jews and Christians since the fall of the Berlin Wall eight years ago. Cardinal Jaime Ortega, in a later meeting, also stressed that Cuba has seen an improvement in religious freedom during the past decade. Both said the greater openness came from a recognition on President Castro's part that a religious reconciliation was necessary. President Castro, Dr. Miller noted, has attended Hanukkah services at his synagogue. Dr. Miller and Ms. Dworin estimated that Cuba's Jewish population has shrunk to 1,500 from about 15,000 in 1959, and that they must bring in a rabbi to hold high holiday services.

We held our final meeting June 1 with Dr. Pedro Lopez Saura at The Center for Genetic Engineering and Biotechnology, an impressive biotech

facility that has apparently pioneered a vaccination for Meningitis B. Meningitis B, which also plagues the United States, is a severe infectious disease that may lead to permanent neurological damage and even to death in acute cases. Meningitis strikes about 2,600 people annually, more than half under five years old. Meningitis B accounts for 50–55 percent of all U.S. cases. While NIH, our federal medical research arm, has a budget 1,000 times the size of The Cuban center's, the Cuban facility has apparently outstripped American efforts in a couple of narrow areas, including Meningitis B vaccine and interferon work. I found Dr. Lopez, who has trained in Cuba, Belgium, East Germany and Finland, very impressive. I suggested that Dr. Lopez visit NIH Director Dr. Harold Varmus, who has already visited the Cuban facility, for an exchange that could benefit both nations.

We began our meetings the next morning, June 2, with the Cuban Minister of Health, Dr. Carlos Dotres Martinez, at one of Cuba's largest medical teaching facilities on the outskirts of Havana. Dr. Martinez touted the Cuban health system and presented charts and statistics to suggest that Cuba's aggressive research and vaccination program has eradicated polio, diphtheria and other pestilences and improved its citizens' health and longevity. In a common Cuban refrain, Dr. Martinez argued that the U.S. blockade has forced Cubans to spend more for medical imports from Europe and China. He estimated Cuba has spent an estimated $20 million more for freight and other incidental costs on top of the fixed costs of $50 million to $100 million.

I suggested that Dr. Martinez meet with HHS Secretary Donna Shalala.

We met next with Concepcion de la Campa, President and General Director of the Finlay Institute, which manufactures vaccines, including the Meningitis B vaccine pioneered by the Cuban research labs. I had a particular interest in this biotechnology effort because a company with a substantial base in my state of Pennsylvania is negotiating a license to work with Cubans to produce the Meningitis B vaccine. Under their proposed arrangement, the Pennsylvania company would produce the vaccine in quantity for distribution in the United States and elsewhere in the First World and the Cubans would manufacture the vaccine for the rest of the world.

Mrs. Campa, like her Cuban medical colleagues, agreed that medical research would be boosted by closer relations between the United States and Cuba, and by such joint ventures.

We met next at the U.S. Ambassador's Residence with ambassadors from several nations: Charge Josef Marsicek of the Czech Republic, Ambassador Reinhold Huber of Germany, Ambassador Eduardo Junco Bonet of Spain, Ambassador David Ridgway of Britain, and Ambassador Keith Christie of Canada. The ambassadors gave me a frank assessment of President Castro and the Cuban realities. Like the US team, the European diplomats also saw a thawing in the Castro regime's stridency, as demonstrated by Cuban overtures for dialog.

After my talk with the ambassadors, I met at the US residence with five Cuban dissidents and human rights activists: A member of the Christian Liberation Movement; a former Batista-era soldier, an environmental and peace activist; a medical doctor removed from his post for criticizing the Cuban medical establishment; and a member of the Pro-Human Rights Party. We discussed human rights and repression generally and specifically, with a focus on ''The Four,'' four jailed Cuban dissidents whose plight has stirred international human rights complaints. I have omitted their names and limited comments on their statements to protect their identities.

The dissidents told us passionately of the Cuban government's intolerance for any dissent, demonstrated by frequent jailings and loss of jobs and travel opportunities for those who speak out. The dissidents disagreed on remedies for accomplishing change, differing, for example, on whether the United States should lift its embargo.

At 8 pm Wednesday evening, we arrived at the President's complex for a dinner meeting with President Castro. The President arrived 10 minutes later, apologized for his tardiness, and proceeded to host us for a six hour and 37 minute session, ending at nearly 3 am. We had been advised that President Castro enjoyed lengthy talks. We knew we were in for a long night when President Castro said he had worked until 5:45 am the night before and then slept eight hours, waking at 2 pm—just six hours before our meeting. We did not even move from the President's conference room to his dining room until midnight.

I found President Castro, at 73, robust and engaging. Always cordial, he was at times jocular and at other times guarded. He wore his trademark green military uniform with modest insignia and took notes throughout much of our meeting. During our talk, we covered the gamut of subjects.

I asked about the possibility of parole for the four celebrated dissidents. President Castro told me, ''I think they should fulfill their sentences because they have done great damage to this country,'' He insisted that charges against Cuba of human rights abuses ''were totally unfair,'' arguing that Cuba did not torture prisoners, employ death squads or practice assassination.

On the issue of drug trafficking, President Castro said his country has been cracking down, including establishing the death penalty for international drug trafficking. ''We are willing to cooperate'' with the United States, he said. ''We don't ask the Americans for anything in return. We do it as a matter of ethics.'' He noted that Cuba would not, however, allow the United States to violate its territorial waters or air space.

I asked President Castro about the assassination of President Kennedy, an area of particular interest for me because of my work as a lawyer on the Warren commission. President Castro maintained that the Cuban government played no role in the assassination, and that it would have been insane for it to have become involved, given that the United States, by his reckoning, was looking for provocation or pretense to invade Cuba. Castro said Lee Harvey Oswald, Kennedy's assassin, wanted to go to Cuba—a request the Cubans denied—simply to transit to the Soviet Union. President Castro said he was relieved that the Warren Commission concluded that Cuba was not involved with Oswald.

I asked President Castro if he was concerned that people might think Cuba had been involved with Oswald. He said, ''Yes, we were concerned.''

President Castro gave an elaborate description of the Cuban Missile Crisis. He described how Cuba initially bought its weapons from Belgium, a NATO country, to avoid inciting the United States. But the second Belgian shipment was sabotaged and blown up on Havana's docks, Castro said, and he eventually arranged to buy Soviet arms. President Castro said former Soviet leader Nikita Kruschev made a mistake in not describing the missiles as defensive weapons and in ''getting into a game of definitions'' instead of simply maintaining his right to install weapons without question. President Castro noted the United States had weapons at the time in Turkey and Italy. He described his hunting trip in Russia with Kruschev, and how Kruschev had pulled out and read from a letter to Kennedy. When Kruschev read a passage about Kennedy promising to pull U.S. missiles out of Turkey and Italy, President Castro said, Kruschev realized he had made a mistake in revealing that Kruschev was going to breach his deal with Castro and remove the Cuban missiles. That would leave Cuba vulnerable to U.S. invasion, in President Castro's view.

In the end, President Castro said, the Russian withdrawal also served Cuba's purpose. ''We preferred the risk of invasion to the presence of Soviet troops, because it would have established an image [of Cuba] as a Soviet base.''

President Castro told us about various assassination attempts against him by the United States since 1959, some documented by the U.S. Senate's Church Committee. Plans were launched to poison President Castro's milk shake, to plant an exploding cigar and to blow him up. ''Some of them were childish,'' he said. President Castro said he had survived largely ''as a matter of luck.''

I asked him how he felt about being the target of so many assassination attempts.

President Castro replied, ''Do you play any sports?''

I said, ''I play squash every day.''

He said, ''That is my sport.''

Throughout the evening, the Cuban President frequently dispatched an aide or minister in the wee hours to produce a document or find an official's name. The aides performed their research in short order. In one case, President Castro wanted the name of a U.S. Senator who had visited Cuba in 1977, which turned out to be former Sen. Lowell Weicker of Connecticut.

The next morning—or, more accurately, later Thursday morning—we met with Cardinal Ortega. Like Dr. Miller of the Havana synagogue, Cardinal Ortega also said the Cuban regime had adopted a more open attitude toward religion, from the previous ''climate of fear.'' He attributed the thaw in the government's position to a recognition that it was not easy to erase religious faith. He noted there have always been diplomatic relations between Havana and the Vatican.

As for living conditions in Cuba under Castro, the Cardinal said the obvious in noting widespread poverty. On human rights, he said the Castro regime always equates human rights as the right to health, study and education, a low threshold.

Our visit was facilitated by the assistance and cooperation of the U.S. team and the Cuban government.

CHILD ACCESS PREVENTION

Mr. LEVIN. Mr. President, as the 1999 school year came to a close, our Nation was shocked by the incidences of school violence that claimed so many lives. In the aftermath of these tragedies, Americans have become more sensitized to the dangers of guns and the easy access that children have to them. Yet, despite this additional scrutiny by parents, guns continue to claim the lives of young people. Each day, more children are dying, not just in schoolyards, but in the home. They are killed by guns in unintentional shootings.

Unintentional shootings are among the leading causes of death for young people. According to the National Center for Health Statistics, each day at least one person under the age of 19 is killed by an unintentional shooting. Unsafe guns are an enormous danger to these young people, who are the victims of 33 percent of all accidental firearm deaths. And in Michigan, people under the age of 19 make up more than 50 percent of the fatalities caused by unintentional shootings.

Unintentional shootings almost always occur at home, when a child finds a loaded weapon and while playing with it, shoots himself, a sibling, or a young friend. Some parents try to take precautions against these tragedies by hiding their firearm in a drawer, a closet or even under the mattress. Unfortunately, if it is loaded or without a safety lock, it does not matter where that gun is hidden. It has the potential to kill, and for hundreds of kids each year, it does just that.

Daily shootings resulting from the careless storage of guns can easily be prevented. Locking devices for guns are simple to handle and inexpensive, but they must be used. In the Juvenile Justice bill that passed the Senate just a few weeks ago, an amendment was included that would require all sales, deliveries or transfers of handguns to include a secure gun storage or safety device, which was a step in the right direction. But, there was nothing to require that adults, especially with children in the house, use those safety devices. Safe storage laws, or Child Access Prevention, CAP, laws are needed to ensure that adults store loaded guns with safety devices in place and in locations reasonably inaccessible to children.

There is no doubt that owning a firearm requires precaution and responsibility, especially when young children are around. CAP laws hold adults criminally responsible if a loaded firearm was left where it could be reasonably accessed by a juvenile, and the juvenile uses or brings into public the adult's firearm without the permission of his parent or guardian. Criminal liability would not apply to adults who have no reasonable expectation of having a juvenile on their premises or if a juvenile obtains a firearm as a result of an unlawful entry. CAP laws simply require adults to use common sense safety measures, such as secure gun storage devices or trigger locks for their firearms.

Currently, there are 16 States that have enacted CAP laws. And since the first law took effect 10 years ago, state CAP laws have reduced unintentional deaths of children by firearms on an average of 23 percent. In Florida, just one year after CAP was enacted, unintentional shootings dropped more than 50 percent. And for every state that has enacted a safe storage law, there is compelling evidence that because of CAP, children are safer at home.

Despite these successes, there are still an overwhelming number of states, including Michigan, without CAP laws. And until there is awareness that guns should be locked up and stored unloaded, guns will continue to claim the lives of innocent children. Until CAP or safe storage laws are the law of the land, people will continue to learn the hard way that the guns in their home meant for protection will continue to claim the lives of those they are trying to protect.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 23, 1999, the Federal debt stood at $5,594,431,506,414.50 (Five trillion, five hundred ninety-four billion, four hundred thirty-one million, five hundred six thousand, four hundred fourteen dollars and fifty cents).

One year ago, June 23, 1998, the Federal debt stood at $5,500,927,000,000 (Five trillion, five hundred billion, nine hundred twenty-seven million).

Five years ago, June 23, 1994, the Federal debt stood at $4,598,158,000,000 (Four trillion, five hundred ninety-eight billion, one hundred fifty-eight million).

Ten years ago, June 23, 1989, the Federal debt stood at $2,780,957,000,000 (Two trillion, seven hundred eighty billion, nine hundred fifty-seven million) which reflects a debt increase of more than $2 trillion—$2,813,474,506,414.50 (Two trillion, eight hundred thirteen billion, four hundred seventy-four million, five hundred six thousand, four hundred fourteen dollars and fifty cents) during the past 10 years.

NOMINATION OF RICHARD HOLBROOKE

Mr. GRASSLEY. Mr. President, I am announcing, today, my intention to place a hold on the nomination of Mr. Richard Holbrooke to be the next U.S. Ambassador to the United Nations. I would like to explain for the benefit of my colleagues why I have done so.

First, let me explain that I have nothing against Mr. Holbrooke. He is simply caught in the middle. The issue can be cleared up very, very quickly, if reasonable heads come together.

At issue is the outrageous treatment by the State Department of one of its employees. Her name is Linda Shenwick. She is Counselor for Resources Management at the United States U.N. Mission. She is the Mission's expert on financial and management matters.

Ms. Shenwick has been instrumental in bringing to light many of the waste and mismanagement issues associated with the U.N. She's been an invaluable source of information and insight for the people's branch of government. Some people in the State Department, apparently all the way to the top, don't much care for Ms. Shenwick's candor with Congress. And so they painted a big, ol' target on Ms. Shenwick, and have come after her, relentlessly.

You see, Ms. Shenwick is guilty of committing the crime of telling the truth. And when you commit truth, you're history in the State Department.

Here is how the State Department has treated Ms. Shenwick. I'd like my colleagues to know this, so they can judge for themselves whether this is conduct befitting such a grand institution as the State Department.

Ms. Shenwick has been ''Felix Bloched.'' You remember Felix Bloch. He was investigated while under suspicion for espionage. He was put on non-duty status while he was investigated. That's now what they've done to Ms. Shenwick, effective last Friday at 5:30 pm.

That's not all. Before kicking her out of her office last week, she was not allowed to talk to other employees. They could not talk to her. She had to keep her door closed at all times. She could

not access the main computer in the office. They forced her to fly to Washington, with little or no notice, for meetings that didn't occur.

At the end of this month, Ms. Shenwick must report to a new job in Washington, in an area in which she has no background. They know that she wants to stay in New York. They seem determined to break this woman down. So far, they have not succeeded.

Mr. President, I have a long-standing practice of taking up the cause of witnesses before the Congress who have done the right thing at great risk to their careers. Before I do this, I must make sure the individual has sufficient credibility, and is being retaliated against for their disclosures in the public interest. I have spoken with my colleagues on both sides of the aisle, and on both sides of Capitol Hill. They all agree she has credibility, and has provided solid, accurate information to Congress. It is information that has led to management reforms and more effective controls of the U.N. budget. No one has ever successfully challenged her information. Instead, the Department has attacked her.

In all the whistleblower cases I have worked over the years, this one stands out. I have never seen such a blatant, raw attempt to harass and silence a whistleblower who simply told the truth. Can the truth be that offensive to the State Department?

My action to put a hold on the Holbrooke nomination is a contest over which message will prevail. By its actions, the message the State Department wants to send is fear. Every other employee of the USUN Mission has their eyes firmly fixed on this case. The State Department wants them to know, if they commit truth like Ms. Shenwick did, that they, too, will get the ''Felix Bloch Treatment.'' I guess committing truth is just as bad as committing espionage.

Mr. President, It's my hope that we in this body will intercept that message, and send one of our own. The people's right to know the truth is what we care about. And those who help Congress know the truth will be protected, not punished.

Until this month, Ms. Shenwick and her attorney had been negotiating with the State Department to find her a new job in New York. There was some progress, but the Department started negotiating in bad faith. The talks broke down, and Ms. Shenwick is being transferred to Washington at the end of the month, to a job for which she has no background.

I am willing to release my hold of the nomination of Mr. Holbrooke forthwith. But before that happens, fairness and civility must prevail. Good faith negotiations must re-start, and an agreement must be reached by both parties. This could happen within 24 hours, if desired.

In 1997, another member of this body put a similar hold on a nominee until the Department resolved Ms. Shenwick's situation. The Secretary agreed to resolve the issues and keep Ms. Shenwick at the USUN Mission. The hold was lifted. But instead of resolving the matter, the harassment continued. And it continues to this day.

That will not happen again. The hold gets lifted when there's an agreement in writing.

Mr. President, I hope that my colleagues appreciate the reasonableness of my position, and the importance of the message that I am asking this body to send. I hope I can count on their support in the public's best interest. And we can then allow Mr. Holbrooke to get on with his important work in New York.

EDUCATION EXPRESS ACT OF 1999 (ED-EXPRESS)

Mr. FRIST. Mr. President, yesterday, Senator DOMENICI and I introduced the Education Express Act (Ed-Express). This legislation builds on the success of the Ed-Flex bill, which earlier this year passed the Senate and House of Representatives by overwhelming margins, and was signed into law in April.

It is critical that this Congress builds on Ed-Flex's themes of flexibility and accountability. As we consider the Reauthorization of the Elementary and Secondary Education Act, we must continue the push to cut red tape and remove overly-prescriptive federal mandates on federal education funding. At the same time, we must hold states and local schools accountable for increasing student achievement.

Flexibility, combined with accountability, must be our objective. The end result of our reform effort must spark innovation—innovation designed to provide all students a world-class education.

This need for flexibility and accountability in education was repeated again and again in hearings held by the Senate Budget Committee's Task Force on Education. The Task Force, on which Senator DOMENICI serves as an Ex-officio member, and I serve as the chairman, issued a report entitled ''Prospects for Reform: The State of Education and the Federal Role.''

In this report the Task Force made several recommendations of ways to improve the federal education effort. The number one recommendation noted, ''In light of the continuing proliferation of federal categorical programs, the Task Force recommends that federal education programs be consolidated. This effort should include reorganization at the federal level, and block grants for the states. The Task Force particularly favors providing states flexibility to consolidate all federal funds into an integrated state strategic plan to achieve national educational objectives for which the state would be held accountable.''

The Ed-Express bill is the legislative response to this recommendation. Specifically, $37 billion over the next five years would be provided from the federal government as part of a larger consolidation of duplicative and limiting categorical programs into a much more streamlined and direct funding stream to states and localities for a variety of education purposes.

We have a national emergency in education. To address this crisis, the federal government will commit additional resources for a five-year period in order to improve student achievement and the quality of our teaching force.

This would infuse significant funds to the hands of parents, communities, and local/State governments to improve the education achievement of students.

Under this plan, States may elect to receive elementary and secondary education funding by ''Direct Check.'' Incentives such as replacing existing burdensome federal categorical programs are provided to encourage States to choose the direct check option. A State, however, may choose to remain in the categorical system.

In the spirit of Ed-Flex, this legislation that we introduced also looks to the Governors for leadership. States which opt for the Direct Check Flexibility will receive their education funding upon the adoption of a State plan written by the governor that outlines the goals and objectives for the funds.

The Nation's governors are leading the way for education reform in this country. It was the Nation's Governors who helped bring about the successful passage of Ed-Flex. We at the Federal level must do all we can to advance the reform efforts taking place at the State and local levels.

Ed-Express establishes a Challenge Fund, a Teacher Quality Fund, and an Academic Opportunity Fund.

Challenge Funds would be provided to States and localities with the flexibility to design and implement programs to improve student learning. These funds may be used to purchase new books, hire teachers, promote character education, provide tutoring services for students, and for a variety of other education initiatives.

Teacher Quality Funds may be used for such activities as providing professional development opportunities for teachers, merit pay, increasing teachers' salaries, and alternative certification programs.

Academic Opportunity Funds may be used to provide governors who choose the Direct Check option with the ability to reward school districts and schools that meet or exceed state-defined goals and performance objectives for student achievement and teacher quality.

The need for a consolidated Federal education effort has never been greater. I think that we are all familiar with the statistics that show our students are not able to keep up academically with their international counterparts. In fact, the longer a student stays in an American school the more his/her academic skills deteriorate. We must draw

upon innovative methods to correct this problem so that our children will be able to compete in the global economy.

As a scientist, I know the value of looking for new ways to solve problems, and America has long had a proud tradition to innovation. Ed-Express will create a whole new generation of inventors in the field of education—in particular, Governors, local school boards, teachers, and parents will be better able to put good ideas into practice.

REPORT ON THE NATIONAL EMERGENCY CAUSED BY THE LAPSE OF THE EXPORT ADMINISTRATION ACT OF 1979 FOR THE PERIOD AUGUST 19, 1998 THROUGH FEBRUARY 19, 1999—MESSAGE FROM THE PRESIDENT—PM 40

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month periodic report on the national emergency declared by Executive Order 12924 of August 19, 1994, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 24, 1999.*

REPORT OF THE PROTOCOL AMENDING THE AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE UNITED STATES AND CANADA—MESSAGE FROM THE PRESIDENT—PM 41

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b) and (d)), the text of a proposed Protocol Amending the Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada signed at Washington June 15, 1955, as amended. I am also pleased to transmit my written approval, authorization, and determination concerning the Protocol, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Protocol. (In accordance with section 123 of the Act, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), I have submitted to the Congress under separate cover a classified annex to the NPAS, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Protocol has been negotiated in accordance with the Atomic Energy Act of 1954, as amended, and other applicable law. In my judgment, it meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The Protocol amends the Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada in two respects:

1. It extends the Agreement, which would otherwise expire by its terms on January 1, 2000, for an additional period of 30 years, with the provision for automatic extensions thereafter in increments of 5 years each unless either Party gives timely notice to terminate the Agreement; and

2. It updates certain provisions of the Agreement relating to the physical protection of materials subject to the Agreement.

The Agreement itself was last amended on April 23, 1980, to bring it into conformity with all requirements of the Atomic Energy Act and the Nuclear Non-Proliferation Act of 1978. As amended by the proposed Protocol, it will continue to meet all requirements of U.S. law.

Canada ranks among the closest and most important U.S. partners in civil nuclear cooperation, with ties dating back to the early days of the Atoms for Peace program. Canada is also in the forefront of countries supporting international efforts to prevent the spread of nuclear weapons to additional countries. It is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and has an agreement with the IAEA for the application of full-scope safeguards to its nuclear program. It also subscribes to the Nuclear Supplier Group (NSG) Guidelines, which set forth standards of the responsible export of nuclear commodities for peaceful use, and to the Zangger (NPT Exporters) Committee Guidelines, which oblige members to require the application of IAEA safeguards on nuclear exports to nonnuclear weapon states. It is a party to the Convention on the Physical Protection of Nuclear Material, whereby it has agreed to apply international standards of physical protection to the storage and transport of nuclear material under its jurisdiction or control.

Continued close cooperation with Canada in the peaceful uses of nuclear energy, under the long-term extension of the U.S.-Canada Agreement for Cooperation provided for in the proposed Protocol, will serve important U.S. national security, foreign policy, and commercial interests.

I have considered the views and recommendations of the interested agencies in reviewing the proposed Protocol and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the Protocol and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediate consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 24, 1999.*

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2000'' (Rept. No. 106–85).

By Mr. SPECTER, from the Committee on Veterans' Affairs:

Special Report entitled ''Legislative Activities of the Committee on Veterans Affairs' During the 105th Congress'' (Rept. No. 106–86).

By Mr. CAMPBELL, from the Committee on Appropriations, without amendment:

S. 1282: An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent Agencies, for the fiscal year ending September 30, 2000, and for other purposes (Rept. No. 106–87).

By Mrs. HUTCHISON, from the Committee on Appropriations, without amendment:

S. 1283: An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2000, and for other purposes (Rept. No. 106–88).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 140: A bill to establish the Thomas Cole National Historic Site in the State of New York as an affiliated area of the National Park System, and for other purposes (Rept. No. 106–89).

S. 734: A bill entitled the ''National Discovery Trails Act of 1999'' (Rept. No. 106–90).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an

amendment in the nature of a substitute and an amendment to the title:

S. 762: A bill to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park (Rept. No. 106–91).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 938: A bill to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park, and for other purposes (Rept. No. 106–92).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 939: A bill to correct spelling errors in the statutory designations of Hawaiian National Parks (Rept. No. 106–93).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 946: A bill to authorize the Secretary of the Interior to transfer administrative jurisdiction over land within the boundaries of the Home of Franklin D. Roosevelt National Historic Site to the Archivist of the United States for the construction of a visitor center (Rept. No. 106–94).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 955: A bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield in Virginia, as previously authorized by law, by purchase or exchange as well as by donation (Rept. No. 106–95).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1027: A bill to reauthorize the participation of the Bureau of Reclamation in the Deschutes Resources Conservancy, and for other purposes (Rept. No. 106–96).

H.R. 459: A bill to extend the deadline under the Federal Power Act for FERC Project No. 9401, the Mt. Hope Waterpower Project (Rept. No. 106–97).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1287: An original bill to provide for the storage of spent nuclear fuel pending completion of the nuclear waste repository, and for other purposes (Rept. No. 106–98).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.R. 441: A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 768: A bill to establish court-martial jurisdiction over civilians serving with the Armed Forces during contingency operations, and to establish Federal jurisdiction over crimes committed outside the United States by former members of the Armed Forces and civilians accompanying the Armed Forces outside the United States.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. HATCH, for the Committee on the Judiciary:

Keith P. Ellison, of Texas, to be United States District Judge for the Southern District of Texas, vice Norman W. Black, retired.

Gary Allen Feess, of California, to be United States District Judge for the Central District of California, vice James M. Ideman, retired.

Stefan R. Underhill, of Connecticut, to be United States District Judge for the District of Connecticut, vice Peter C. Dorsey, retired.

W. Allen Pepper, Jr. of Mississippi, to be United States District Judge for the Northern District of Mississippi, vice L.T. Senter, Jr., retired.

Karen E. Schreier, of South Dakota, to be United States District Judge for the District of South Dakota, vice Richard H. Battey, retired.

(The above nominations were reported with the recommendation that they be confirmed.)

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. BINGAMAN:

S. 1273. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAMS (for himself, Mr. ROTH, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BURNS, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mrs. HUTCHISON, Mr. SANTORUM, Mr. THOMAS, Mr. NICKLES, Mr. MACK, Mr. CRAIG, Mr. COVERDELL, Mr. MCCONNELL, Mr. INHOFE, and Mr. BUNNING):

S. 1274. A bill to amend the Internal Revenue Code of 1986 to increase the accessibility to and affordability of health care, and for other purposes; to the Committee on Finance.

By Mr. KYL:

S. 1275. A bill to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales into the Colorado River Dam fund; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. CHAFEE, Mr. DASCHLE, Mr. SPECTER, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mr. REED, Mr. LEAHY, Ms. LANDRIEU, Mr. REID, Mr. WYDEN, Mr. SARBANES, Mr. KERRY, Mr. INOUYE, Mr. LAUTENBERG, Mr. ROBB, Mr. CLELAND, Mr. MOYNIHAN, Mr. SCHUMER, Mr. AKAKA, Mr. DURBIN, Mrs. BOXER, Mr. TORRICELLI, Mr. KERREY, Mr. LEVIN, Mr. FEINGOLD, Mr. BRYAN, Mrs. FEINSTEIN, and Mr. KOHL):

S. 1276. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. MURKOWSKI, Mr. ROCKEFELLER, Mr. CONRAD, Mr. HARKIN, and Mr. ROBB):

S. 1277. A bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics; to the Committee on Finance.

By Mr. FRIST:

S. 1278. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KERREY (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 1279. A bill to improve the environmental quality and public use and appreciation of the Missouri River and to provide additional authority to the Army Corps of Engineers to protect, enhance, and restore fish and wildlife habitat on the Missouri River; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S. 1280. A bill to terminate the exemption of certain contractors and other entities from civil penalties for violations of nuclear safety requirements under Atomic Energy Act of 1954; to the Committee on Environment and Public Works.

By Mr. DURBIN (for himself, Mr. TORRICELLI, Ms. MIKULSKI, and Mr. CLELAND):

S. 1281. A bill to consolidate in a single independent agency in the executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies; to the Committee on Government Affairs.

By Mr. CAMPBELL:

S. 1282. An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent Agencies, for the fiscal year ending September 30, 2000, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mrs. HUTCHINSON:

S. 1283. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2000, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. NICKLES:

S. 1284. A bill to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any suppliers; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself, Mr. DEWINE, and Mr. FEINGOLD)

S. 1285. A bill to amend section 40102(37) of title 49, United States Code, to modify the definition of the term ''public aircraft'' to provide for certain law enforcement and emergency response activities; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, and Mr. DURBIN):

S. 1286. A bill to authorize the Attorney General to make grants to local educational agencies to carry out school violence prevention and school safety activities in secondary schools; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1287. An original bill to provide for the storage of spent nuclear fuel pending completion of the nuclear waste repository, and for other purposes; to the Committee on Energy and Natural Resources; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBB:

S. Con. Res. 42. A concurrent resolution expressing the sense of the Congress that a

commemorative postage stamp should be issued by the United States Postal Service honoring the members of the Armed Forces who have been awarded the Purple Heart; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1273. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL POWER ACT OF AMENDMENTS OF 1999

Mr. BINGAMAN. Mr. President, I rise to introduce the electricity restructuring bill I introduced in the last Congress. I offer the bill today because the Energy and Natural Resources Committee will be holding two legislative hearings next week on the pending electricity restructuring bills, and I want this bill to be included in the discussions. With the exception of two typographical corrections, the text of the bill is identical to S. 1276, which I introduced in the last Congress.

The bill has three principal legislative objectives: (1) clarifying the line between state and federal jurisdiction, (2) strengthening the reliability of the transmission system, and (3) ensuring fair access to the interstate transmission grid. When I introduced the bill in the last Congress it received wide support as the nucleus of the most critical issues that Congress must address in any restructuring legislation.

As many Senators are aware, I am working with the chairman of the Energy and Natural Resources Committee, my good friend Senator MURKOWSKI, on developing a consensus electricity bill that can be marked up and reported to the full Senate. Although I had expected that we would be further along in the process by now, I remain fully committed to following this bipartisan course. My introduction of this bill should not impeded that process.

Much has happened in the electric utility industry since this bill was first drafted nearly two years ago. There are now six approved regional transmission operators, and several more are on the drawing boards. Twenty-two states, including New Mexico, have implemented some form of electric competition and two more may pass legislation this year. And there is now industry-wide consensus on the importance of federal legislation to assure the continued security and reliability of the nation's high-tension transmission grid.

Mr. President, I continue to see a strong need for federal electricity legislation so that states that have elected retail competition can fully enjoy all of the benefits that completion brings. In addition, improvements in federal regulation will streamline wholesale markets in every state. At the same time, I believe Congress should not enact federal legislation that disrupts existing state laws or that forces unwilling states to restructure.

I also have increasing concern about the mounting cloud of litigation pending in the federal courts that could frustrate the development of healthy wholesale and retail markets. Only Congress can clear up jurisdictional issues and let competitive markets fully develop. Interstate transmission must be a federal responsibility.

Mr. President, I believe we now have a consensus on the core issues that Congress must address. The Energy Committee held an oversight hearing last month on the status of restructuring in the states. There was nearly universal agreement among the witnesses on the need for federal legislation addressing interstate transmission and federal-state jurisdiction

I look forward to the legislative hearings next week on this and other bills and to reporting bi-partisan electricity legislation that can pass the Senate this year.

Mr. President, I ask unanimous consent that a copy 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. 1273

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 ''Federal Power Act Amendments of 1999''.

SEC. 2. CLARIFICATION OF JURISDICTION.

(a) DECLARATION OF POLICY.—Section 201(a) of the Federal Power Act (16 U.S.C. 824(a)) is amended by—

(1) inserting after ''transmission of electric energy in interstate commerce'' the following: '', including the unbundled transmission of electric energy sold at retail,''; and

(2) striking ''such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.'' and inserting the following: ''such Federal regulation shall not extend, however, to the bundled retail sale of electric energy or to unbundled local distribution service, which are subject to regulation by the States.''.

(b) APPLICATION OF PART.—Section 201(b) of the Federal Power Act (16 U.S.C. 824(b)(1)) is amended by—

(1) inserting after ''the transmission of electric energy in interstate commerce'' the following: '', including the unbundled transmission of electric energy sold at retail,''; and

(2) adding at the end the following:

''(3) The Commission, after consulting with the appropriate State regulatory authorities, shall determine, by rule or order, which facilities used for the transmission and delivery of electric energy are used for transmission in interstate commerce subject to the jurisdiction of the Commission under this Part, and which are used for local distribution subject to State jurisdiction.''.

(c) DEFINITION OF INTERSTATE COMMERCE.—Section 201(c) of the Federal Power Act (16 U.S.C. 824(c)) is amended by inserting after ''outside thereof'' the following: ''(including consumption in a foreign country)''.

(d) DEFINITIONS OF TYPES OF SALES.—Section 201(d) of the Federal Power Act (16 U.S.C. 824(d)) is amended by—

(1) inserting ''(1) after the subsection designation;

(2) adding at the end the following:

''(2) The term 'bundled retail sale of electric energy' means the sale of electric energy to an ultimate consumer in which the generation and transmission service are not sold separately.

''(3) The term 'unbundled local distribution service' means the delivery of electric energy to an ultimate consumer if—

''(A) the electric energy and the service of delivering it are sold separately, and

''(B) the delivery uses facilities for local distribution as determined by the Commission under subsection (b)(3).

''(4) The term 'unbundled transmission of electric energy sold at retail' means the transmission of electric energy to an ultimate consumer if—

''(A) the electric energy and the service of transmitting it are sold separately, and

''(B) the transmission uses facilities for transmission in interstate commerce as determined by the Commission under subsection (b)(3).''.

(e) DEFINITIONS OF PUBLIC UTILITY.—Section 201 of the Federal Power Act (16 U.S.C. 824) is amended by striking subsection (e) and inserting the following:

''(e) The term 'public utility' when used in this Part or in the Part next following means—

''(1) any person who owns or operates facilities subject to the jurisdiction of the Commission under this Part (other than facilities subject to such jurisdiction solely by reason of section 210, 211, or 212); or

''(2) any electric utility or Federal power marketing agency not otherwise subject to the jurisdiction of the Commission under this Part, including—

''(A) the Tennessee Valley Authority,

''(B) a Federal power marketing agency,

''(C) a State or any political subdivision of a State, or any agency, authority, or instrumentality of a State or political subdivision,

''(D) a corporation or association that has ever received a loan for the purpose of providing electric service from the Administrator of the Rural Electrification Administration or the Rural Utilities Service under the Rural Electrification Act of 1936; or

''(E) any corporation or association which is wholly owned, directly or indirectly, by any one or more of the foregoing,

but only with respect to determining, fixing, and otherwise regulating the rates, terms, and conditions for the transmission of electric energy under this Part (including sections 217, 218, and 219).''.

(f) APPLICATION OF PART TO GOVERNMENT UTILITIES.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking ''No provision'' and inserting ''Except as provided in subsection (e)(2) and section 3(23), no provision''.

(g) DEFINITION OF TRANSMITTING UTILITY.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by striking paragraph (23) and inserting the following:

''(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any electric utility, qualifying cogeneration facility, qualifying small power production facility, Federal power marketing agency, or any public utility, as defined in section 201(e)(2), that owns or operates electric power transmission facilities which are used for the sale of electric energy.''.

SEC. 3. FEDERAL WHEELING AUTHORITY.

(a) COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—

(1) Section 211(a) of the Federal Power Act (16 U.S.C. 824j(a)) is amended by striking ''for resale''.

(2) Section 212(a) of the Federal Power Act (16 U.S.C. 824k(a)) is amended by striking

''wholesale transmission services'' each place it appears and inserting ''transmission services''.

(3) Section 212(g) of the Federal Power Act (16 U.S.C. 824k(g)) is repealed.

(b) LIMITATION ON COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—Section 212 of the Federal Power Act (16 U.S.C. 824k) is further amended by striking subsection (h) and inserting the following:

''(h) LIMITATION ON COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—No rule or order issued under this Act shall require or be conditioned upon the transmission of electric energy:

''(1) directly to an ultimate consumer in connection with a sale of electric energy to the consumer unless the seller of such energy is permitted or required under applicable State law to make such sale to such consumer, or

''(2) to, or for the benefit of, an electric utility if such electric energy would be sold by such utility directly to an ultimate consumer, unless the utility is permitted or required under applicable State law to sell electric energy to such ultimate consumer.''.

(c) CONFORMING AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by striking paragraph (24) and inserting the following:

''(24) TRANSMISSION SERVICES.—The term 'transmission services' means the transmission of electric energy in interstate commerce.''.

SEC. 4. STATE AUTHORITY TO ORDER RETAIL ACCESS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 215. STATE AUTHORITY TO ORDER RETAIL ACCESS.

''(a) STATE AUTHORITY.—Neither silence on the part of Congress nor any Act of Congress shall be construed to preclude a State or State commission, acting under authority of state law, from requiring an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within such State.

''(b) NONDISCRIMINATORY SERVICE.—If a State or State commission permits or requires an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within such State, the electric utility shall provide such service on a not unduly discriminatory basis. Any law, regulation, or order of a State or State commission that results in unbundled local distribution service that is unjust, unreasonable, unduly discriminatory, or preferential is hereby preempted.

''(c) RECIPROCITY.—Notwithstanding subsection (b), a State or state commission may bar an electric utility from selling electric energy to an ultimate consumer using local distribution facilities in such State if such utility or any of its affiliates owns or controls local distribution facilities and is not itself providing unbundled local distribution service.

''(d) STATE CHARGES.—Nothing in this Act shall prohibit a State or State regulatory authority from assessing a nondiscriminatory charge on unbundled local distribution service within the State, the retail sale of electric energy within the State, or the generation of electric energy for consumption by the generator within the State.''.

SEC. 5. UNIVERSAL AND AFFORDABLE SERVICE.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 216. UNIVERSAL AND AFFORDABLE SERVICE.

''(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

''(1) every consumer of electric energy should have access to electric energy at reasonable and affordable rates, and

''(2) the Commission and the States should ensure that competition in the electric energy business does not result in the loss of service to rural, residential, or low-income consumers.

''(b) CONSIDERATION AND REPORTS.—Any State or State commission that requires an electric utility subject to its jurisdiction to provide unbundled local distribution service shall—

''(1) consider adopting measures to—

''(A) ensure that every consumer of electric energy within such State shall have access to electric energy at reasonable and affordable rates, and

''(B) prevent the loss of service to rural, residential, or low-income consumers; and

''(2) report to the Commission on any measures adopted under paragraph (1).''.

SEC. 6. NATIONAL ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 217. NATIONAL ELECTRIC RELIABILITY STANDARDS.

''(a) RELIABILITY STANDARDS.—The Commission shall establish and enforce national electric reliability standards to ensure the reliability of the electric transmission system.

''(b) DESIGNATION OF NATIONAL AND REGIONAL COUNCILS.—

''(1) For purposes of establishing and enforcing national electric reliability standards under subsection (a), the Commission may designate an appropriate number of regional electric reliability councils composed of electric utilities or transmitting utilities, and one national electric reliability council composed of designated regional electric reliability councils, whose mission is to promote the reliability of electric transmission system.

''(2) The Commission shall not designate a regional electric reliability council unless the Commission determines that the council—

''(A) permits open access to membership from all entities engaged in the business of selling, generating, transmitting, or delivering electric energy within its region;

''(B) provides fair representation of its members in the selection of its directors and the management of its affairs; and

''(C) adopts and enforces appropriate standards of operation designed to promote the reliability of the electric transmission system.

''(c) INCORPORATION OF COUNCIL STANDARDS.—The Commission may incorporate, in whole or in part, the standards of operation adopted by the regional and national electric reliability councils in the national electric reliability standards adopted by the Commission under subsection (a).

''(d) ENFORCEMENT.—The Commission may, by rule or order, require any public utility or transmitting utility to comply with any standard adopted by the Commission under this section.

SEC. 7. SITING NEW INTERSTATE TRANSMISSION FACILITIES.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 218. SITING NEW INTERSTATE TRANSMISSION FACILITIES.

''(a) COMMISSION AUTHORITY.—Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may order a transmitting utility to enlarge, extend, or improve its facilities for the interstate transmission of electric energy.

''(b) PROCEDURE.—The Commission may commence a proceeding for the issuance of an order under subsection (a) upon the application of an electric utility, transmitting utility, or state regulatory authority, or upon its own motion.

''(c) COMPLIANCE WITH OTHER LAWS.—Commission action under this section shall be subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other applicable state and federal laws.

''(d) USE OF JOINT BOARDS.—Before issuing an order under subsection (a), the Commission shall refer the matter to a joint board appointed under section 209(a) for advice and recommendations on the need for, design of, and location of the proposed enlargement, extension, or improvement. The Commission shall consider the advice and recommendations of the Board before ordering such enlargement, extension, or improvement.

''(e) LIMITATION ON AUTHORITY.—The Commission shall have no authority to compel a transmitting utility to extend or improve its transmission facilities if such enlargement, extension, or improvement would unreasonably impair the ability of the transmitting utility to render adequate service to its customers.''.

SEC. 8. REGIONAL INDEPENDENT SYSTEM OPERATORS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 219. REGIONAL INDEPENDENT SYSTEM OPERATORS.

''(a) REGIONAL TRANSMISSION SYSTEMS.—Whenever the Commission finds such action necessary or desirable in the public interest to ensure the fair and non-discriminatory access to transmission services within a region, the Commission may order the formation of a regional transmission system and may order any transmitting utility operating within such region to participate in the regional transmission system.

''(b) OVERSIGHT BOARD.—The Commission shall appoint a regional oversight board to oversee the operation of the regional transmission system. Such oversight board shall be composed of a fair representation of all of the transmitting utilities participating in the regional transmission system, electric utilities and consumers served by the system, and State regulatory authorities within the region. The regional oversight board shall ensure that the independent system operator formulates policies, operates the system, and resolves disputes in a fair and non-discriminatory manner.

''(c) INDEPENDENT SYSTEM OPERATOR.—The regional oversight board shall appoint an independent system operator to operate the regional transmission system. No independent system operator shall—

''(1) own generating facilities or sell electric energy, or

''(2) be subject to the control of, or have a financial interest in, any electric utility or transmitting utility within the region served by the independent system operator.

''(d) COMMISSION RULES.—The Commission shall establish rules necessary to implement this section.''.

SEC. 9. ENFORCEMENT.

''(a) GENERAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is amended by—

(1) striking ''subsection'' and inserting ''section''; and

(2) striking ''or 214'' and inserting: ''214, 217, 218, or 219''.

''(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking ''or 214'' each place it appears and inserting: ''214, 217, 218, or 219''.

SEC. 10. AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.

Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) PROTECTION OF EXISTING WHOLESALE POWER PURCHASE CONTRACTS.—No State or

State regulatory authority may bar a State regulated electric utility from recovering the cost of electric energy the utility is required to purchase from a qualifying cogeneration facility or qualifying small power production facility under this section.''.

By Mr. GRAMS (for himself, Mr. ROTH, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BURNS, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mrs. HUTCHISON, Mr. SANTORUM, Mr. THOMAS, Mr. NICKLES, Mr. MACK, Mr. CRAIG, Mr. COVERDELL, and Mr. MCCONNELL):

S. 1274. A bill to amend the Internal Revenue Code of 1986 to increase the accessibility to and affordability of health care, and for other purposes; to the Committee on Finance.

HEALTH CARE ACCESS AND EQUITY ACT OF 1999

Mr. GRAMS. Mr. President, I rise today with my colleagues Chairman ROTH and Senator ABRAHAM, to introduce legislation which will provide access to affordable health insurance for 43 million uninsured Americans, correct the inequities in the tax treatment of certain types of health insurance, and allow for the full deductibility of long term care insurance.

The Health Care Accessibility and Equity Act of 1999 presents us with the opportunity to create the most comprehensive tax-deductible coverage system in our nation's history.

One of the most discriminatory portions of the tax code is the disparate treatment between an employer purchasing a health plan as opposed to an individual purchasing health insurance on their own.

Mr. President, when employers purchase a health plan for their employees, he or she can fully deduct the costs of providing that insurance, effectively lowering the actual costs of providing that coverage.

However, when an employee purchases an individual policy on their own, they must do so with after tax-dollars. They don't have the ability or the advantage offered to employers to reduce the actual costs of the policy by deducting premiums from their taxes every year.

Therefore, they usually wind up without health coverage. The Health Care Accessibility and Equity Act will end this discrimination within the tax code and make health care available for many Americans today.

Further, the legislation offered today by Senator ROTH, Senator ABRAHAM, and myself would immediately allow the self-employed to fully deduct health insurance costs. Twenty-five million Americans are in families headed by a self-employed individiual—20 percent of those are uninsured.

We always talk about trying to have more Americans covered by health care insurance. Yet, we have a tax code which discriminates against some, while favoring others. This results in fewer people being covered.

Let's make the same tax incentives for purchasing health insurance available to employers apply to everyone—level the playing field and we will have taken the next logical step in the evolution of our health care system,

Mr. President, I believe Congress should be doing all we can to lower the costs of health insurance.

However, it seems most proposals before the Senate do just the opposite by forcing some federal definition of a quality health plan on consumers and sticking them with the bill.

It's not good policy it does nothing for those who are uninsured and it certainly won't help those who will be forced to drop health insurance because they can no longer afford the premiums,.

Mr. President, we've heard a lot of rhetoric about patient protections and why the Federal Government needs to step in and help consumers. Indeed, a better role for the Government is to help consumers by removing restrictions on Medical Savings Accounts as we do in this legislation as well.

MSAs allow the consumers to control their costs when it comes to providing their families with health care. It would allow them to decide which provider they want to see and which services they want and will pay for. Certainly, empowering patients is a much more productive solution to a problem than simply forcing consumers to buy the government's definition of quality health insurance.

When Congress created the medical savings accounts in the Kassebaum-Kennedy Health Insurance Portability and Accountability Act, there were so many restrictions placed upon the program then that it was essentially set up to fail. Yet MSAs have managed to become tremendously successful.

According to the General Accounting Office, 37 percent of all MSA policyholders were previously uninsured. When you gave them the option and the opportunity, they were then able financially to buy insurance. Clearly, MSAs are providing an option for those who before couldn't afford to buy health insurance.

The bill we are introducing today does not force Americans into a government-centered health care plan, a system that they spoke so loudly against back in 1993, if we remember. Senator KENNEDY's Patients' Bill of Rights legislation, I think, is another example of a government-centered approach which actually threatens the accessibility and the affordability of health care.

Again, this morning, our legislation fosters a consumer-centered health care system without raising the costs, which so many of our constituents have favored.

Glenn Howatt of the Minneapolis Star Tribune recently did an article on MSAs and spoke with several policyholders. I will read a portion of his article which I believe demonstrates exactly why Congress needs to lift the restrictions on MSAs so that everyone has the opportunity to purchase an affordable health insurance plan. Mr. Howatt gives an account of Suzanne Eisenreich Roberts.

Last year, Roberts thought it would be a good idea to dump her individual health insurance policy, which cost $330 every month, because she rarely got sick.

She switched to an MSA last year. Her premiums dropped to $100 per month, but her deductible shot up to $2,250 a year.

Two days after the new policy became effective, Roberts developed a gallstone problem that required surgery. Although the insurance covered the $14,000 surgery, Roberts had to pay $2,250 to satisfy the deductible requirement.

''Financially, I can afford the deductible,'' said Roberts. And, she noted, ''I was really out nothing because I would have spent it in premiums anyway.''

If Roberts had kept her old policy, her annual premiums would have been $3,960.

But her new policy's premiums are just $1,200 a year—a $2,760 saving that more than makes up for the deductible cost.

Even though she went with the MSA, even though she had to have surgery the first year, she was far ahead by having a medical savings account compared to her own insurance policy.

I ask unanimous consent to have printed the entire text of Mr. Howatt's article and another pertinent article in the RECORD.

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

[From the Star Tribune, Feb. 28, 1999]

MEDICAL SAVINGS ACCOUNTS OFFER RELIEF FROM HIGH HEALTH CARE PREMIUMS

(By Glenn Howatt)

At time when health care premiums in Minnesota are up 15 to 20 percent over last year's rates, a growing number of small businesses are turning to medical savings accounts as a way to seek relief.

Commonly known as MSAs, medical savings accounts combine a high-deductible insurance policy with a tax-advantaged account the consumer can use to pay the deductible. MSAs represent a departure from the norm in a state serviced primarily by health maintenance organizations and other forms of managed care.

Most health insurance policies in Minnesota provide coverage for a wide range of medical needs—everything from complex surgery to routine clinic visits.

But under MSAs, insurance coverage doesn't kick in until the individual policyholder has paid for thousands of dollars worth of health care out of pocket.

This high-deductible insurance policy is paired with the medical savings account, a tax-advantaged fund that helps the policyholder cope financially with the demands of the deductible.

To its advocates, the MSA is more than a one-time fix to cut costs, instead representing a long-term approach to buying health care.

THE ADVANTAGES

The catastrophic insurance policy results in much lower premiums, the high deductible controls costs by cutting down on unnecessary visits to the doctor, and the attractive savings account gives users an incentive to stay healthy so they can use the money for other things, such as retirement, advocates content.

But MSAs also have critics, who say the high deductible is a burden for those with chronic medical conditions. Some also fear public health consequences if individuals

avoid spending money to receive the kind of preventive health care that is fully covered by managed care policies.

Congress asked the General Accounting Office (GAO), the investigative and research arm of the government, to gauge the impact of MSAs on the health insurance market when it authorized the marketing of MSAs under a four-year experiment that began in 1997.

* * * * *

While the policy implications of MSAs are still unclear, in practical terms, MSAs are becoming an option for small businesses and the self-employed, the only groups that are eligible to set up MSAs.

Under the current law, the definition of self-employed is the same as the Internal Revenue Service's: a person who pays self-employment tax or pays Social Security tax as a self-employed person. The plans are not available to people who are unemployed or who have retired early and are not yet covered by Medicare, but a bill proposed in the U.S. House would expand the definition to include those groups.

SMALL BUSINESS BUYER

Eldon Kimball, owner of Edina-based Creative Systems Software, happened upon the MSA option after he received a general mailing from an insurance broker.

Kimball, who provides health benefits for himself and his four employees, was looking for some way to deal with spiraling health care premiums.

''Premiums were going up and up and up and up and for a small company like ours, that was becoming a terrible burden,'' Kimball said.

Small businesses such as Kimball's have few options—cut benefits, ask employees to shoulder more cost, drop health insurance altogether, or let health care take a bigger bite out of the bottom line.

While Kimball noted that switching to an MSA would lower his total premium bill by nearly $200 a month, he was more impressed with the benefits that the MSA could provide to his employees.

Kimball uses the money he saves on premiums to partially fund the medical savings accounts for his employees, a move that gives him a break on his taxes.

The employees can use the money in their MSAs to pay for medical costs—the annual deductibles for the insurance policy are $2,250 for individuals and $4,450 for families.

Anything that employees don't spend they keep, making the MSA another way of saving for retirement. At that point, the money becomes available for any purpose without penalty. Withdrawals from MSAs can be made before retirement for non-medical purposes, but those are subject to penalties and taxes.

RETIREMENT FUND

''It has a long-term advantage,'' said Kimball. The MSA ''becomes another benefit in the form of a retirement fund if they don't use it.''

Under the MSA regulations, employers are not required to put money into employees' accounts.

Edwrd M. Ryan, an Eden Prairie-based certified public accountant who employs 10 workers, said his employees still come out ahead even though he doesn't fund their MSAs.

Before his office switched to MSAs last year, he split the cost of the monthly insurance premium with his workers. Now he pays the entire cost of the premium, freeing up workers' money to fund their MSAs.

But MSAs also come with high deductibles, as Suzanne Eisenreich Roberts, who owns Accountant Profile Inc., a Roseville-based placement agency for accountants, knows well.

Last year, Roberts thought it would be a good idea to dump her individual health insurance policy, which cost $330 every month, because she rarely got sick.

She switched to an MSA last year. Her premiums dropped to $100 per month, but her deductible shot up to $2,250 a year.

Two days after the new policy became effective, Roberts developed a gallstone problem that required surgery. Although the insurance covered the $14,000 surgery. Roberts had to pay $2,250 to satisfy the deductible requirement.

''Financially I can afford the deductible,'' said Roberts. And, she noted, ''I was really out nothing because I would have spent it in premiums anyway.''

If Roberts had kept her old policy, her annual premiums would have been $3,960. But her new policy's premiums are just $1,200 a year—a $2,760 saving that more than makes up for the deductible cost.

TARGETING UNINSURED

Companies that sell MSAs obviously are targeting people such as Roberts who have little downside risk. But they also hope to sign up people who could not afford health insurance before.

The GAO reported that of the nearly 42,000 MSA accounts established in 1997, 37 percent were started by individuals who previously did not have health insurance.

''MSAs were intended for having a lower cost mechanism to attract more people without insurance,'' said Scott Krienke, vice president of marketing for Fortis Insurance in Milwaukee.

The GAO report issued in December said about 40 companies nationally were selling high-deductible insurance policies paired with MSAs. Some insurance companies act as trustee for the account, but sometimes a bank or investment company serves as the trustee.

Insurance companies responding to the GAO survey said they were disappointed with sales, but hoped that growing familiarity with MSAs on the part of consumers and brokers would lead to greater acceptance of the product.

Fortis, which sells MSAs nationwide, is believed to be the largest seller of MSA policies in Minnesota, according to state officials.

Krienke said Fortis sold 260 individual policies in Minnesota in 1997 and nearly doubled that number to 516 in 1998. He hopes sales will reach 700 this year.

* * * * *

NEW CUSTOMERS

MSAs could gain a larger market presence this year through Community Coordinated Health Care, a new health plan being formed by a consortium of clinics and hospitals.

The plan will offer MSAs to small and medium-sized businesses that are part of the Employers Association, a coalition of more than 1,700 companies.

''We are going to appeal to everybody,'' said Bernie Mackell, of Eden Prairie-based Medical Savings Accounts Inc., who is coordinating MSAs for the new health plan.

Mackell said education will be a large component of the MSA programs being offered to Employers Association companies.

''Having employees involved in their health care is important,'' Mackell said. Health education would encourage employees to seek preventive care as one way that they can preserve capital in the MSA funds.

The new health plan is expected to be operational by this summer.

And at least two large health insurers are watching the MSA market closely.

Blue Cross and Blue Shield of Minnesota said it is monitoring the market, although right now it has not plans to offer an MSA.

However, HealthPartners said it is actively considering offering an MSA product.

''We already have in our product line a $1,000 deductible plan for individuals that moves in the direction that MSAs go,'' said George Halvorson, HealthPartners chief executive, adding that there is a ''good likelihood'' that HealthPartners may add an MSA into the mix at some point.

A NATIONAL EXPERIMENT

Insurance companies began selling medical savings accounts (MSAs) in 1997 under a four-year trial period established by Congress. Self-employed workers and small businesses with 50 or fewer employees are eligible for MSAs. Sales of MSAs have not met expectations, and only 42,000 MSAs were opened in 1997, according to the General Accounting Office (GAO). MSA advocates say the rules laid down by Congress are too restrictive and want the accounts to be available to a wider market. But critics fear that MSAs could siphon healthier individuals from the traditional insurance market. A GAO study on the effect of MSAs was canceled because not enough MSAs have been sold.

HOW MSAS WORK

Medical savings accounts are paired with high-deductible, low-premium health insurance policies.

THE HEALTH INSURANCE POLICY

Premiums on high-deductible policies are typically lower than most other forms of insurance. Employers offering MSAs can require workers to pay part of the premium.

For individual coverage, deductibles must be at least $1,500 but no more than $2,250. For family coverage, deductibles range between $3,000 and $4,500.

The policy might (but is not required to) have additional out-of-pocket costs, such as copayments for office visits. Maximum annual out-of-pocket expenses, including the deductible, are $3,000 for individuals and $5,500 for families.

THE MEDICAL SAVINGS ACCOUNT

DEPOSITS

Money deposited into the MSA, which is separate from the premiums paid on the health policy, can come from the individual or the employer, but not from both in the same year.

There's a limit to how much money can be put into an MSA each year. For individual coverage, up to 65 percent of the deductible amount can be contributed. For family coverage, the maximum goes up to 75 percent of the deductible.

Contributions made by individuals are tax-deductible. Contributions made by employers do not count toward gross income and are not subject to taxes.

Most MSA accounts earn interest similar to passbook savings accounts, but some MSA administrators offer the option to transfer money into money market accounts or mutual funds under certain conditions.

WITHDRAWALS

MSA contributions accrue and are not ''use it or lose it'' accounts. Individuals are not required to use MSA funds when paying deductible amounts under the insurance policy.

MSA dollars can be used to pay for qualified medical expenses, including doctor visits, prescription drugs, vision and dental care.

Withdrawals from MSAs for non-medical expenses are subject to a 15 percent tax penalty and are counted as gross income.

After the MSA account holder turns age 65, MSA funds can be used for any purpose and are not assessed the 15 percent penalty.

Mr. GRAMS. Clearly, Mr. President, MSAs offer many benefits for the uninsured. Let's lift the restrictions placed on MSAs and allow everyone to open a Medical Savings Account.

The Health Care Accessibility and Equity Act begins the process of dealing with our nation's long term care needs.

Mr. President, it is estimated that, in the history of the world, half of the people who have ever reached age 65 are alive today.

And as the babyboom generation ages, the population of those over age 65 will increase quicker than at any time in history.

The increase in the aged population brings with it a number of complex and vexing issues, one of which is long term care.

The Health Insurance Portability and Accountability Act tinkered slightly with the issue of long term care insurance, but we need to meet the issue head on.

The legislation Chairman ROTH, Senator ABRAHAM, and I are introducing today would eliminate the questions surrounding what constitutes a qualified versus non-qualified long term care plan and their tax treatment.

I have always believed we should encourage individuals to save for their retirement needs and, for a number of reasons, usually cost, long term care insurance is often overlooked during retirement planning.

Unfortunately, this often leads to individuals spending themselves down to poverty and relying on Medicaid. By allowing individuals to deduct the costs of long-term care insurance, we can prevent many of our elderly from impoverishing themselves in order to receive long-term care.

The Health Care Accessibility and Equity Act of 1999 is good policy and will begin to address the crisis of 43 million Americans without access to affordable health care insurance today. Most important, it levels the playing field for those who are purchasing health insurance individually.

I urge my colleagues to support this legislation and to help us get closer to the goal of health care access for all Americans.

Mr. ROTH. Mr. President, there is a serious inadequacy in the treatment of Americans who must pay for their health care on their own and those who receive it on a tax subsidized basis from their employers. In addition, our tax code restricts people from making health care decisions in a tax advantaged way. I am happy to join with my colleagues, Senator GRAMS of Minnesota and Senator ABRAHAM of Michigan in sponsoring the Health Care Access and Equity Act of 1999. Our bill would rectify this situation and provide a level playing field for all Americans who purchase their own health insurance and those who receive employer subsidized insurance. It will also give people more tax-advantaged options in how they use their health care dollars.

Let me explain the current unfairness of our tax code as it relates to health care insurance. Current law provides that any employer subsidy of health benefits is not included in the income of the employee. This means that if an employer pays the entire cost of health care insurance, that entire subsidy is not included in the employee's taxable income.

However, if the employer does not provide health care insurance for its employees or if the employee has to pay the full cost of the insurance, they do not get the same tax benefit as those who have all or a portion of their health care insurance paid for by their employer. Those premiums that are not paid for by the employer can be deducted by the employee—but only to the extent that the total premium amount and other health care costs exceed 7.5% of the employee's adjusted gross income. What this effectively means is that these individuals are denied a tax effective way of paying for health insurance.

Self-employed individuals don't have an employer to cover their health insurance needs; they must pay for their health insurance on their own. Self-employed individuals can only deduct 60% of the amount of their health care premiums. This percentage will increase over time until the year 2003, when health care premiums will be fully deductible.

Our current tax code does not treat all taxpayers the same. Our bill changes this situation.

This bill provides that all taxpayers can fully deduct the amount paid for health insurance—as long as the taxpayer is not eligible to participate in an employer subsidized medical plan. This equalizes the tax treatment of paying for health insurance so that all individuals get a tax incentive when they have health care insurance, regardless of whether their employer pays for the coverage.

This amendment underscores the need to make health care more affordable for more Americans and to begin providing greater equity in the tax treatment of health insurance whether people obtain their coverage at their place of employment or purchase coverage in the individual health insurance market.

It is a sobering fact that there are over 41 million Americans without health insurance.

Largely as a result of the tax incentives I explained before, the number of people covered by employer-provided health insurance has grown from less than 12 million in 1940 to approximately 150 million today.

However, those who do not have tax-subsidized health care benefits do not fare as well. According to the Employee Benefit Research Institute, individuals who must pay for health coverage with after-tax dollars are 24 times more likely to be uninsured as those with employer-provided coverage.

With this change, all individuals who do not receive the employer-provided subsidies for health care insurance will not have the opportunity to have their taxes reduced because they purchased insurance.

This amendment will benefit approximately 12 million taxpayers who do not have health insurance that is subsidized by an employer.

Our bill also provides that more individuals will be able to have long term care insurance in a tax effective manner, by giving them a tax deduction for the payment of premiums for a long term care policy. Current law only allows a deduction for long term care premiums if those premiums, along with other medical expenses exceed 7.5% of adjusted gross income. With this bill, the entire amount of the long term care premium will be deductible. This will benefit at least 3.8 million taxpayers. Clearly more people will be able to prepare for their future needs by buying long term care insurance.

Another important provision of our bill is the expansion of the availability of medical Savings Accounts. MSAs gives individuals more choice in how they spend their health care dollars.

Current law restricts who can participate in an MSA and clearly these restrictions have limited who participate in this program. Our bill would lift these caps on this program and give people more reason to choose to be in an MSA.

Another important point to remember with MSAs is that they encourage those individuals who are not insured to become insured. When the General Accounting Office reviewed what has happened in the MSA market, they reported that approximately one third of those who participated in the MSA program had been previously uninsured. The MSA participated in the MSA program had been previously uninsured. The MSA program has been proven to increase those covered under a health plan; with this bill we expand the program so that more people will be insured.

Finally, our bill provides incentives for employees to contribute to flexible spending accounts. With a flexible spending account, an employee can contribute a portion of his salary—thereby reducing his taxable income—to a flexible spending account and then use the money in that account to pay for health care benefits, whether or not they are covered by his medical insurance. Increasing the availability of these FSAs, will give employees more freedom on how to spend their money when purchasing health care.

The policy behind our bill is clear—increased equity in the tax system for health care insurance and more choice for individuals in how they spend their health care dollars. I am happy to join my two distinguished colleagues—Senator GRAMS and ABRAHAM and the other Senators co-sponsoring this important health care legislation.

By Mr. KYL:

S. 1275. A bill to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales into the Colorado River Dam fund; to the Committee on Energy and Natural Resources.

HOOVER DAM MISCELLANEOUS SALES ACT

Mr. KYL. Mr. President, I rise today to introduce a bill to authorize the Bureau of Reclamation to produce commemorative items for sale at the Hoover Dam Visitor Center.

Mr. President, the Hoover Dam receives more than one million visitors a year. Many of those visitors have expressed an interest in purchasing books, maps, photos, and other memorabilia relating to the Colorado River and the design, construction, and operation of the Dam. This bill would authorize the production and sale of such items, including the minting of commemorative coins from scrap copper that came from electrical cabinets and boxes which were used when the Dam was manually operated. Four to five tons of copper are available for this purpose.

Mr. President, this bill not only responds to the public's demand for Hoover Dam-related items, it also creates a revenue source to help repay the cost of constructing the visitor center and of providing guided tours of the Dam and its power plant. Currently, purchasers of Hoover Dam power in Arizona, California, and Nevada are paying for the construction of the visitor center, which ended up costing approximately $125 million, nearly four times as much as the original estimate. This bill further authorizes the Bureau to select a private concessionaire to manage the gift shop selling these items, thereby creating a new business opportunity for a private or a non-profit entity. Thus, this bill would enhance the visitor experience at Hoover Dam in a taxpayer-friendly way.

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

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

S. 1275

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 ''Hoover Dam Miscellaneous Sales Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the sale and distribution of general public information about the use of public land and water areas for recreation, fish, wildlife, and other purposes serve significant public benefits;

(2) publications and other materials educate the public and provide general information about Bureau of Reclamation programs and projects;

(3) in 1997, more than 1,000,000 visitors, including 300,000 from foreign countries, toured the Hoover Dam;

(4) hundreds of thousands of additional visitors stopped to view the dam;

(5) visitors often ask to purchase maps, publications, and other items to enhance their experience or serve educational purposes;

(6) in many cases the Bureau of Reclamation is the sole source of those items;

(7) the Bureau is in a unique position to fulfill public requests for those items; and

(8) as a public agency, the Bureau should be responsive to the public by having appropriate items available for sale.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to authorize the Secretary of the Interior to offer for sale to members of the public that visit the Hoover Dam Visitor Center educational materials and memorabilia; and

(2) to use revenue from those sales to repay the costs relating to construction of the Hoover Dam Visitor Center.

SEC. 4. AUTHORITY TO CONDUCT SALES.

With respect to the Hoover Dam, the Secretary of the Interior, acting through the Commissioner of Reclamation, may—

(1) conduct sales of—

(A) materials generated by the Bureau of Reclamation such as posters, maps, brochures, photographs, and similar publications, videotapes, and computer information discs that are related to programs or projects of the Bureau; and

(B) memorabilia and other commemorative items that depict programs or projects of the Bureau;

(2) convert unneeded property or scrap material into Bureau memorabilia for sale purposes; and

(3) enter into agreements with nonprofit organizations, other Federal agencies, State and local governments, and commercial entities for—

(A) the production or sale of items described in paragraphs (1) and (2); and

(B) the sale of publications described in paragraph (1).

SEC. 5. COSTS AND REVENUES.

(a) COSTS.—All costs incurred by the Bureau of Reclamation under this Act shall be paid from the Colorado River Dam fund established by section 2 of the Act of December 21, 1928 (43 U.S.C. 617a).

(b) REVENUES.—

(1) USE FOR REPAYMENT OF SALES COSTS.—All revenues collected by the Bureau of Reclamation under this Act shall be credited to the Colorado River Dam fund to remain available, without further Act of appropriation, to pay costs associated with the production and sale of items in accordance with section 4.

(2) USE FOR REPAYMENT OF CONSTRUCTION COSTS.—All revenues collected by the Bureau of Reclamation under this Act that are not needed to pay costs described in paragraph (1) shall be transferred annually to the general fund of the Treasury in repayment of costs relating to construction of the Hoover Dam Visitor Center.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. CHAFEE, Mr. DASCHLE, Mr. SPECTER, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mr. REED, Mr. LEAHY, Ms. LANDRIEU, Mr. REID, Mr. WYDEN, Mr. SARBANES, Mr. KERRY, Mr. INOUYE, Mr. LAUTENBERG, Mr. ROBB, Mr. CLELAND, Mr. MOYNIHAN, Mr. SCHUMER, Mr. AKAKA, Mr. DURBIN, Mrs. BOXER, Mr. TORRICELLI, Mr. KERREY, Mr. LEVIN, Mr. FEINGOLD, Mr. BRYAN, Mrs. FEINSTEIN, and Mr. KOHL):

S. 1276. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Health, Education, Labor, and Pensions.

EMPLOYMENT NON-DISCRIMINATION ACT OF 1999

Mr. JEFFORDS. Mr. President, I am delighted to be here today to introduce the Employment Non-Discrimination Act of 1999 (ENDA). I am here today because I believe that the principles of equality and opportunity should be applied to all Americans and that success at work should be based on performance, not prejudice.

Unfortunately, qualified, hard-working Americans continue to be denied job opportunities based instead on sexual orientation. The Employment Non-Discrimination Act will help put an end to this insidious discrimination. By extending to sexual orientation the same federal employment discrimination protections established for race, religion, gender, national origin, age and disability, the Employment Non-Discrimination Act will further ensure that principals of equality and opportunity apply to all Americans.

This bill is about fairness, this bill is about equality, this bill is about basic civil rights. This bill must pass this Congress.

ENDA will achieve equal rights — not ''special rights'' — for gays and lesbians. This legislation prohibits preferential treatment based on sexual orientation. To remove any doubt, we have added language to expressly prohibit affirmative action on the basis of sexual orientation.

ENDA does not require an employer to justify a neutral practice that may have a statistically disparate impact based on sexual orientation, nor provide benefits for the same-sex partner of an employee. Rather, it simply protects a right that should belong to every American, the right to be free from discrimination at work because of personal characteristics unrelated to successful performance on the job.

We took a fresh look at ENDA and we have made a number of constructive changes this year. We have re-written the discrimination section to more closely track Title VII of the Civil Rights Act of 1964. This new language has the benefit of 35 years of legal interpretation. Employers and courts alike understand this language and what is expected under it.

One concern that we have heard repeatedly during past debates is that this language will create a tidal wave of litigation. In Vermont, one of 11 states to have enacted a sexual-orientation anti-discrimination law, the legal waters have been more like the Tidal Basin. In the 9 years since the enactment of Vermont's law, Vermont's Attorney General has initiated only 25 investigations of alleged sexual orientation discrimination.

Vermont is not unique. According to the GAO, none of the states with

ENDA-type laws have experienced a wave of litigation. Instead, these states have ensured that employees working within their borders cannot be discriminated against for being gay.

As I have stated before, success at work should be directly related to one's ability to do the job, period. We first introduced ENDA in 1994. Over the past six years, we have held hearings, listened to the concerns raised and revised this legislation to respond to those concerns. I am pleased to report that it was worth the effort because The Employment Non-Discrimination Act of 1999 is the best bill we have ever introduced. The time has come to make the Employment Non-Discrimination Act the law of the land.

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. 1276

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 ''Employment Non-Discrimination Act of 1999''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to provide a comprehensive Federal prohibition of employment discrimination on the basis of sexual orientation;

(2) to provide meaningful and effective remedies for employment discrimination on the basis of sexual orientation; and

(3) to invoke congressional powers, including the powers to enforce the 14th amendment to the Constitution and to regulate interstate commerce, in order to prohibit employment discrimination on the basis of sexual orientation.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission.

(2) COVERED ENTITY.—The term ''covered entity'' means an employer, employment agency, labor organization, or joint labor-management committee.

(3) EMPLOYER.—The term ''employer'' means—

(A) a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h))) who has 15 or more employees (as defined in section 701(f) of such Act (42 U.S.C. 2000e(f)) for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(B) an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies;

(C) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301) or section 401 of title 3, United States Code; or

(D) an entity to which section 717(a) of the Civil Rights of 1964 (42 U.S.C. 2000e–16(a)) applies.

(4) EMPLOYMENT AGENCY.—The term ''employment agency'' has the meaning given the term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(5) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—Except as provided in section 10(a)(1), the term ''employment or an employment opportunity'' includes job application procedures, referral for employment, hiring, advancement, discharge, compensation, job training, a term, condition, or privilege of union membership, or any other term, condition, or privilege of employment, but does not include the service of a volunteer for which the volunteer receives no compensation.

(6) LABOR ORGANIZATION.—The term ''labor organization'' has the meaning given the term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(7) PERSON.—The term ''person'' has the meaning given the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(8) RELIGIOUS ORGANIZATION.—The term ''religious organization'' means—

(A) a religious corporation, association, or society; or

(B) a school, college, university, or other educational institution or institution of learning, if—

(i) the institution is in whole or substantial part controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or

(ii) the curriculum of the institution is directed toward the propagation of a religion.

(9) SEXUAL ORIENTATION.—The term ''sexual orientation'' means homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived.

(10) STATE.—The term ''State'' has the meaning given the term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

SEC. 4. DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual's sexual orientation; or

(2) to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of such individual's sexual orientation.

(b) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the sexual orientation of the individual or to classify or refer for employment any individual on the basis of the sexual orientation of the individual.

(c) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the sexual orientation of the individual;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status of the individual as an employee or as an applicant for employment, because of such individual's sexual orientation; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the sexual orientation of the individual in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) ASSOCIATION.—An unlawful employment practice described in any of subsections (a) through (d) shall be considered to include an action described in that subsection, taken against an individual based on the sexual orientation of a person with whom the individual associates or has associated.

(f) DISPARATE IMPACT.—Notwithstanding any other provision of this Act, the fact that an employment practice has a disparate impact, as the term ''disparate impact'' is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), on the basis of sexual orientation does not establish a prima facie violation of this Act.

SEC. 5. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an individual because such individual opposed any act or practice prohibited by this Act or because such individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual's having exercised, enjoyed, or assisted in or encouraged the exercise or enjoyment of, any right granted or protected by this Act.

SEC. 6. BENEFITS.

This Act does not apply to the provision of employee benefits to an individual for the benefit of the domestic partner of such individual.

SEC. 7. COLLECTION OF STATISTICS PROHIBITED.

The Commission shall not collect statistics on sexual orientation from covered entities, or compel the collection of such statistics by covered entities.

SEC. 8. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.

(a) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.

(b) PREFERENTIAL TREATMENT.—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

(c) ORDERS AND CONSENT DECREES.—Notwithstanding any other provision of this Act, an order or consent decree entered for a violation of this Act may not include a quota, or preferential treatment to an individual, based on sexual orientation.

SEC. 9. RELIGIOUS EXEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall not apply to a religious organization.

(b) UNRELATED BUSINESS TAXABLE INCOME.—This Act shall apply to employment or an employment opportunity for an employment position of a covered entity that is a religious organization if the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

SEC. 10. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—

(1) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—In this Act, the term ''employment or an employment opportunity'' does not apply to the relationship between the United States and members of the Armed Forces.

(2) ARMED FORCES.—In paragraph (1), the term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This Act does not repeal or modify any Federal, State, territorial, or local law creating a special right or preference concerning employment or an employment opportunity for a veteran.

SEC. 11. CONSTRUCTION.

Nothing in this Act shall be construed to prohibit a covered entity from enforcing rules regarding nonprivate sexual conduct, if the rules of conduct are designed for, and uniformly applied to, all individuals regardless of sexual orientation.

SEC. 12. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act in the case of a claim alleged by an individual for a violation of this Act—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)), respectively;

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

(4) the Attorney General shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)), respectively;

(5) the President, the Commission, and the Merit Systems Protection Board shall have the same powers as the President, the Commission, and the Board, respectively, have to administer and enforce chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title;

(6) a court of the United States shall have the same jurisdiction and powers as the court has to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220) in the case of a claim alleged by such individual for a violation of section 302(a)(1) of such Act (2 U.S.C. 1202(a)(1));

(C) the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)); and

(D) chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title.

(b) PROCEDURES AND REMEDIES.—The procedures and remedies applicable to a claim alleged by an individual for a violation of this Act are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(2) the procedures and remedies applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) in the case of a claim alleged by such individual for a violation of such section;

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in the case of a claim alleged by such individual for a violation of such section; and

(4) the procedures and remedies applicable for a violation of section 411 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of such section.

(c) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleged by a covered employee (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) for a violation of this Act, title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleged by such a covered employee for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) PROHIBITION OF AFFIRMATIVE ACTION—Notwithstanding any other provision of this section, affirmative action for a violation of this Act may not be imposed. Nothing in this section shall prevent the granting of relief to any individual who suffers a violation of such individual's rights provided in this Act.

SEC. 13. STATE AND FEDERAL IMMUNITY.

(a) STATE IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution from an action in a Federal court of competent jurisdiction for a violation of this Act.

(b) REMEDIES AGAINST THE UNITED STATES AND THE STATES.—Notwithstanding any other provision of this Act, in an action or administrative proceeding against the United States or a State for a violation of this Act, remedies (including remedies at law and in equity, and interest) are available for the violation to the same extent as the remedies are available for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by a private entity, except that—

(1) punitive damages are not available; and

(2) compensatory damages are available to the extent specified in section 1977A(b) of the Revised Statutes (42 U.S.C. 1981a(b)).

SEC. 14. ATTORNEYS' FEES.

Notwithstanding any other provision of this Act, in an action or administrative proceeding for a violation of this Act, an entity described in section 12(a) (other than paragraph (4) of such section), in the discretion of the entity, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee (including expert fees) as part of the costs. The Commission and the United States shall be liable for the costs to the same extent as a private person.

SEC. 15. POSTING NOTICES.

A covered entity who is required to post notices described in section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10) shall post notices for employees, applicants for employment, and members, to whom the provisions specified in section 12(b) apply, that describe the applicable provisions of this Act in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964.

SEC. 16. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Commission shall have authority to issue regulations to carry out this Act.

(b) LIBRARIAN OF CONGRESS.—The Librarian of Congress shall have authority to issue regulations to carry out this Act with respect to employees of the Library of Congress.

(c) BOARD.—The Board referred to in section 12(a)(3) shall have authority to issue regulations to carry out this Act, in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), with respect to covered employees, as defined in section 101 of such Act (2 U.S.C. 1301).

(d) PRESIDENT.—The President shall have authority to issue regulations to carry out this Act with respect to covered employees, as defined in section 401 of title 3, United States Code.

SEC. 17. RELATIONSHIP TO OTHER LAWS.

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

SEC. 18. SEVERABILITY.

If any provision of this Act, or the application of the provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by the invalidity.

SEC. 19. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment of this Act and shall not apply to conduct occurring before the effective date.

Mr. KENNEDY. Mr. President, I am proud to stand with Senator JEFFORDS, Senator LIEBERMAN, Congressman FRANK, and Congressman SHAYS to announce the introduction of the Employment Non-Discrimination Act of 1999, which has over 30 co-sponsors in the Senate and over 150 co-sponsors in the House of Representatives. Once this bill becomes law, it will ensure that all Americans have the opportunity to work without fear of reprisal because of their sexual orientation. It is the next important step for civil rights in America.

This country has made great progress toward fairness and an end to bigotry in the workplace. Title VII of the Civil Rights Act of 1964 ensures that Americans—without regard to their race, ethnic background, gender, or religion—have the opportunity to obtain and keep a job. The Minimum Wage guarantees a basic standard of living. The Family and Medical Leave Act guarantees that working men and

women can balance important family and employment responsibilities without fear of reprisal by their employer. The Americans with Disabilities Act establishes important protections for workers with disabilities.

Now, Congress must take steps to achieve the same kind of fairness for gay men and lesbians who encounter blatant discrimination in the workplace. The Employment Non-Discrimination Act will accomplish that goal by prohibiting employers from using sexual orientation as a basis for hiring, firing, promotion, or compensation.

The bill is important for what it does, as well as what it doesn't do. It does not require domestic partnership benefits. It does not authorize ''disparate impact'' claims. It does not apply to the Armed Services. It contains a broad exemption of religious organizations. It prohibits quotas and preferential treatment, and bars the EEOC from requiring the collection of statistical information on sexual orientation.

A broad coalition of churches, businesses, and civil rights liberties organizations support the Employment Non-Discrimination Act. 68 percent of Americans from all regions of the country support its passage.

The American people agree that workplace discrimination is wrong, and that clear protections are needed to prevent it. Some states already have such laws, and many businesses have policies similar to our proposal. But this patchwork of protection is inadequate. A national standard is essential for the protection of this basic right.

The discrimination that exists today is a stain on our democracy.

David Horowitz encountered this bigotry when he applied to be an Assistant City Attorney in Mesa, Arizona. He had graduated near the top of his law school class at the University of Arizona. While employed by a private law firm, he applied for a position with the City Attorney. He was not offered a position, but he was told he was the second choice. Six months later, he was called and interviewed for another job opening. The City Attorney asked David for references and told him that, ''I only ask for references when I'm ready to make someone an offer.'' In the interview, David told the City Attorney that he was openly gay, and the tone of the interview suddenly changed. David was told that his sexual orientation posed a problem, and three weeks later he received a rejection letter.

What happened to David Horowitz was wrong, but he had no recourse under State or Federal law against this blatant discrimination. No American should be denied a chance to work because of prejudices. It is long past time to close this loophole in our civil rights law, and I urge the Congress to act this year to close it.

Mr. LIEBERMAN. Mr. President, I am delighted to join with Senators JEFFORDS, KENNEDY and over 30 of our colleagues as an original cosponsor of this important legislation, the Employment Non-Discrimination Act of 1999. By guaranteeing that American workers cannot lose their jobs simply because of their sexual orientation, this bill would extend the bedrock American values of fairness and equality to a group of our fellow citizens who too often have been denied the benefit of those most basic values.

Our nation's foundational document, the Declaration of Independence, expressed a vision of our country as one premised upon the essential equality of all people and upon the recognition that our Creator endowed all of us with the inalienable rights to life, liberty and the pursuit of happiness. Two hundred and twenty-three years ago, when that document was drafted, our laws fell far short of implementing the Declaration's ideal. But since that time, we have come ever closer, extending by law to more and more of our citizens—to African Americans, to women, to disabled Americans, to religious minorities and to others—a legally enforceable guarantee that, with respect to their ability to earn a living at least, they will be treated on their merits and not on characteristics unrelated to their ability to do their jobs.

It is time to extend that guarantee to gay men and lesbians, who too often have been subject to incidents of discrimination and denied the most basic of rights: the right to obtain and maintain a job. A collection of one national survey and twenty city and state surveys found that as many as 44 percent of gay, lesbian and bisexual workers faced job discrimination in the workplace at some time in their careers. Other studies have reported even greater discrimination—as much as 68 percent of gay men and lesbians reporting employment discrimination. The fear in which these workers live was clear from a survey of gay men and lesbians in Philadelphia. Over three-quarters told those conducting the survey that they sometimes or always hide their orientation at work out of fear of discrimination.

The toll this discrimination takes extends far beyond its effect on those individuals who must live in fear and without full employment opportunities. It also takes an unacceptable toll on America's definition of itself as a land of equality and opportunity, as a place where we judge each other on our merits, and as a country that teaches its children that anyone can succeed here as long as they are willing to do their job and work hard.

This bill provides for equality and fairness—that and no more. It says only what we already have said for women, for people of color and for others: that you are entitled to have your ability to earn a living depend only on your ability to do the job and nothing else. In fact, the bill would even do somewhat less than it does for women and people of color, because it would not give gay men and women all of the protections we currently provide to other groups protected under our civil rights laws.

Mr. President, this bill would bring our nation one large step closer to realizing the vision that Thomas Jefferson so eloquently expressed 223 years ago when he wrote that all of us have a right to life, liberty and the pursuit of happiness. I urge my colleagues to join me in supporting this important legislation.

Mrs. MURRAY. Mr. President, I am very pleased to join Senator JEFFORDS as he reintroduces the Employment Non-Discrimination Act. As before, I speak as a strong supporter of this legislation, because I have always believed that every single American deserves fair treatment under the law no matter his or her gender, race, religion or sexual orientation.

As one of only a few women to ever serve in the United States Senate, and the first ever from Washington state, I understand what it means to be part of a group that seeks fairness and equal opportunity. I have never advocated for any special class, just equal treatment and protection under the law.

Not long ago, many thought it would be impossible for women to serve in the Senate or an elected office of any kind. It was felt this was not a suitable occupation for a woman and that simply being a woman meant a person was incapable of meeting the demands of the job. These people alleged that women would somehow jeopardize the work done in the U.S. Congress. While these statements may seem impossible to believe today, they do illustrate what many women faced. However, to our country's benefit, these stereotypes were overcome. I am confident that none of my colleagues today would deny the tremendous contributions women have made here, in the House, in state and local government, and at every level of public service.

People suffer when stereotypes based on fear or ignorance are used to justify discrimination. I do not believe elected leaders serve our country well if they deny any citizen equal opportunities and equal treatment under the law. A person's success or failure must depend on his or her qualifications, skills, efforts, and even luck. But, no one, I repeat, no one, should be denied opportunities because of race, gender, religion, age or sexual orientation. No one should endure discrimination such as many people have endured in the workplace because of sexual orientation.

I am always disappointed to hear about cases of economic discrimination based solely on sexual orientation. It defies logic that in today's society any employer could refuse to hire an individual, deny them equal pay, or professional advancement and subject them to harassment simply because of their sexual orientation. Our country is based on the ideal of allowing equal opportunity and basic civil rights for all Americans, but we have not fully

achieved this goal. The Employment Non-Discrimination Act will correct that wrong.

As we would all agree, discrimination based on race, gender, ethnic origin, or religion is not just unfair, but illegal as well. ENDA would simply add sexual orientation to this list. It is written even more narrowly than current law for other areas of non-discrimination, because it does not allow positive corrective actions such as quotas or other preferential treatment. It simply says that a person cannot be unfairly treated in employment, based on his or her sexuality, whether that person is heterosexual or homosexual. Mr. President, this is a reasonable expectation. In fact, it has become a reality in nine states, including California, Massachusetts, and Minnesota, and in many local jurisdictions across the country. Also, many Fortune 500 companies, such as Microsoft and IBM, have adopted their own non-discrimination policies. Companies such as these recognize that it makes good business sense to value each and every one of their employees equally. It is time that our laws reflect these values as well.

Not only do these companies and governments support a non-discrimination policy in the workplace, but the public also supports ENDA by a wide margin, according to a bipartisan 1998 poll conducted for the Human Rights Campaign. This poll found that 58 percent of Americans support the Employment Non-Discrimination Act. This is compelling evidence that Americans are behind ENDA, support expanding these basic civil rights to all, and believe that everyone deserves these rights. They understand that our country will be a better place when discrimination based on sexual orientation in the workplace is put to an end.

Mr. President, this is not about one group's protection at another's expense. This issue is still not about allowing a greater window for litigation, as opponents have previously argued. It is about common sense, common decency and our fundamental values as Americans.

In the last Congress, we came within one vote of adopting this important, bipartisan legislation. I urge my colleagues now to support this measure so that we can continue our proud tradition of protecting basic civil rights and opportunity for all Americans. Let us join together to pass this bill so that our brothers and sisters, sons and daughters, friends and relatives will have protection against unjust discrimination. We have the opportunity to provide them with these basic civil rights now. I hope my colleagues will seize this opportunity to make our country the just, equal, and fair place it should be.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. MURKOWSKI, Mr. ROCKEFELLER, Mr. CONRAD, Mr. HARKIN, and Mr. ROBB):

S. 1277. A bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics; to the Committee on Finance.

SAFETY NET PRESERVATION ACT OF 1999

● Mr. GRASSLEY. Mr. President, I rise today to introduce a bill co-sponsored by Senator BAUCUS to preserve hundreds of community health centers and rural health clinics across the country. Our bill, The Safety Net Preservation Act of 1999, would remedy a phase-out of the payment system that covers the clinics' cost of caring for Medicaid patients. Congress approved the phase-out of cost-based reimbursement during the Balanced Budget Act of 1997.

The phase-out was meant to save Medicaid money and respond to those who felt cost-based reimbursement imposed an expensive mandate on states. Scheduled to begin on October 1, the phase-out will force the clinics to use scarce federal grants intended to provide care for the uninsured to prop up Medicaid under-payments. The change could force health centers to lose as much as $1.1 billion over the next five years.

Our bill would establish a prospective payment system to ensure that health centers and clinics receive sufficient Medicaid funding. The bill would protect the federal investment in health centers while giving states the flexibility to design their own payment systems for health centers and clinics.

There's no doubt that community health centers and rural health clinics serve a unique and essential role in getting high-quality health care services to those in need. They are the backbone of America's health care infrastructure for millions of medically under-served rural and urban communities, where access to health care is often limited. I've seen first hand the valuable services provided by these centers and the obstacles the providers overcome to do so. Last year, I visited a center in Des Moines. They serve patients who speak nine different languages. In many cases, these clinics are often the difference between seeing a doctor and forgoing treatment. We can't allow money shortfalls to force them to shut down. We have to preserve this safety net for millions of Americans.

I am pleased for the support of Senators MURKOWSKI, ROCKEFELLER, CONRAD, ROBB and HARKIN as original co-sponsors of The Safety Net Preservation Act of 1999. I look forward to passage of this important legislation in the 106th Congress.●

By Mr. KERREY (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 1279. A bill to improve the environmental quality and public use and appreciation of the Missouri River and to provide additional authority to the Army Corps of Enginees to protect, enhance, and restore fish and wildlife habitat on the Missouri River; to the Committee on Environment and Public Works.

MISSOURI RIVER VALLEY IMPROVEMENT ACT OF 1999

● Mr. KERREY. Mr. President, I am pleased to introduce today, along with my colleagues Senator DASCHLE and Senator JOHNSON, the Missouri River Valley Improvement Act of 1999. This legislation is important for the 10,000 people who live along the 2,321-mile Missouri River, and marks also the upcoming bicentennial anniversary of the Lewis and Clark expeditions along this great River. The intent of the Act is to improve the environmental qualtiy and public use and appreciation of the Missouri River, and to provide additional authorities to the Army Corps of Engineers to protect, enhance, and restore fish and wildlife habitat as part of their ongoing operations on the River.

The Missouri River is a resource of incalculable value to the 10 states which it traverses, but it is a river that has changed dramatically since the pioneering days of Lewis and Clark. The construction of dams and levees over the past 50 years has aided navigation, flood control, and water supply along the Missouri River, but has also reduced habitat for native river fish and wildlife, and resulted in lost opportunities for recreation on the river.

The legislation will help to restore a series of nature areas along the river in time to celebrate the 2004 anniversary of the Lewis and Clark, when we are anticipating greatly increased visitation along the river and to the surrounding areas, due in large part to the records and descriptions as detailed by these explorers on their 1804 trip.

The bill will also aid native river fish and wildlife, help to restore cottonwoods along the river, reduce flood losses, and enhance recreation and tourism, all vital to the economies and quality of life to our communities along the river. It additional provides authorities for the revitalization of historic riverfronts, similar to the ongoing 'Back to the River' revitalization project currently underway in my home state of Nebraska. The Back of the River Project in Nebraska is bringing our families and our businesses back to the Missouri River, for recreational enjoyment as well as for the commercial and business-related opportunities that follow. It is our hope that this will aid other communities to participate in similar efforts in their riverfronts.

Another major provision of this bill is the creation of a long-term, science-based monitoring program on the Missouri River. This program, to be developed and operated through the U.S. Geological Survey-Biological Resources Division in Columbia, Missouri, will monitor the physical, biological, and chemical characteristics of the Missouri River. The program will help us to monitor and assess the quality of biota, habitats, and the water itself in this great river, and to provide information that will enhance our understanding of the Missouri, how it is operated, and how future operation decisions may affect the river.

We currently do not understand a lot about the river, beyond the physical and some of the habitat-based impacts that have been caused by channelization. This program will create a publicly-accessible database of all the information we do have on the river, and all that is collected through the project, and will help to guide our management of the river in the future. The database will also provide additional opportunities for the people who live along the river to interact with the river in another way, and to learn more about the river that they live near.

I have seen how successful educational opportunities related to the River can be, and how excited and involved children and adults get when they learn about and become more involved with their natural resources. The Fontenelle Forest Association in Nebraska, which contains forests and wetlands, and is along the Missouri River, has hands-on exhibits, live animal displays, teaching spaces, and even meeting spaces for Nebraskans. Ken Finch, the Executive Director of the Fontenelle Forest Association, has been instrumental in providing educational programs and opportunities, including a program called H2Omaha, a multi-faceted science education program which uses the Missouri River and its watershed as a living laboratory. I envision that the Missouri River database created by this Improvement Act will greatly expand information and data available to Ken and the participants at Fontenelle Forest, and I know that other communities will find this resource valuable, as well.

I have also seen successful restoration efforts on the river—efforts like Boyer Chute and Hamburg Bend in Nebraska—both side channels created with the aid of the Corps of Engineers. These side channels have been enormously successful in restoring lost habitat for river species by creating slower-moving, more shallow waterways parallel to the river. These restoration areas have attracted not just wildlife, such as the native fish and birds and even river otter that historically lived in large numbers on the Missouri, but have also attracted canoeists and hikers who enjoy the scenic beauty and the recreational opportunities that these sites offer. This bill will help communities to create additional restoration projects like this along the river, projects that will not impact existing uses of the river, but that will add immensely to recreational and wildlife opportunities, and that will also add additional flood protection to surrounding communities.

In anticipation of the greatly increased visitation along the river that will occur with the Lewis and Clark bicentennial celebration, the bill additionally will establish Lewis and Clark Interpretive Centers to educate the public about the Missouri River, and will allow the Corps of Engineers to provide enhancements to recreational facilities and visitors centers.

Mr. President, I urge my colleagues who represent the states and communities along the Missouri River to look closely at this bill, and to join me and the other cosponsors of the bill in supporting this important legislation. The Missouri River Valley Improvement Act of 1999 will help to restore and improve our access and enjoyment of the river, and will provide vital economic, recreational, and educational opportunities for everyone who lives along and visits this great river, the Crown Jewel of the midwest.●

By Mr. DURBIN (for himself, Mr. TORRICELLI, Ms. MIKULSKI, and Mr. CLELAND):

S. 1281. A bill to consolidate in a single independent agency in the executive branch the responsibilities regarding food safety, labeling, and inspection currently divided among several Federal agencies.

THE SAFE FOOD ACT

Mr. DURBIN. Mr. President, today I am introducing legislation that would replace the current fragmented federal food safety system with a single, independent agency responsible for all federal food safety activities—the Safe Food Act of 1999 (S. 1281). I am pleased to be joined by Senators TORRICELLI, MIKULSKI, and CLELAND in this important effort.

Make no mistake, our country has been blessed with one of the safest and most abundant food supplies in the world. However, we can do better. Foodborne illness is a significant problem.

The safety of our nation's food supply is facing tremendous pressures with regard to emerging pathogens, an aging population with a growing number of people at high risk for foodborne illnesses, broader food distribution patterns, an increasing volume of food imports, and changing consumption patterns.

The General Accounting Office (GAO) estimates that as many as 81 million people will suffer food poisoning this year and more than 9,000 will die. Children and the elderly are especially vulnerable. In terms of medical costs and productivity losses, foodborne illness costs the nation up to $37 billion annually. The situation is not likely to improve without decisive action. The Department of Health and Human Services predicts that foodborne illnesses and deaths will increase 10–15 percent over the next decade.

In 1997, a Princeton Research survey found that 44 percent of Americans believe the food supply in this country is less safe than it was 10 years ago. American consumers spend more than $617 billion annually on food, of which about $511 billion is spent on foods grown on U.S. farms. Our ability to assure that the safety of our food and to react rapidly to potential threats to food safety is critical not only for public health, but also to the vitality of both domestic and rural economies and international trade.

Many of you are probably following the dioxin crisis in Belgium. Days before the national elections poultry, eggs, pork, beef, and dairy products were withdrawn from supermarket shelves. Butcher shops closed and livestock farms were quarantined. Since then countries, worldwide, have restricted imports of eggs, chickens, and pork from the European Union. Public outrage in Belgium over the dioxin scandal led to a disastrous showing by the ruling party in the national and European elections on June 14, and the government was forced to resign. Food safety concerns and fears are global.

Today, food moves through a global marketplace. This was not the case in the early 1900's when the first federal food safety agencies were created. Throughout this century, Congress responded by adding layer upon layer—agency upon agency—to answer the pressing food safety needs of the day. That's how the federal food safety system got to the point where it is today. And again as we face increasing pressures on food safety, the federal government must respond. But we must respond not only to these pressures but also to the very fragmented nature of the federal food safety structure.

Fragmentation of our food safety system is a burden that must be changed to protect the public health from these increasing pressures. Currently, there are at least 12 different federal agencies, 35 different laws governing food safety, and 28 House and Senate subcommittees with food safety oversight. With overlapping jurisdictions, federal agencies often lack accountability on food safety-related issues.

Last August, the National Academy of Sciences (NAS) released a report recommending the establishment of a ''unified and central framework'' for managing federal food safety programs, ''one that is headed by a single official and which has the responsibility and control of resources for all federal food safety activities.'' I agree with this conclusion.

The Administration has stepped forward on the issue of food safety—the President's Food Safety Initiatives and the President's Council on Food Safety have focused efforts to track and prevent microbial foodborne illnesses. I commend President Clinton and Secretaries Glickman and Shalala for their commitment to improving our nation's food safety and inspection systems. Earlier this year in response to the NAS report, the President's Council on Food Safety stated its support for the NAS recommendation calling for a new statute that establishes a unified framework for food safety programs with a single official with control over all federal food safety resources.

An independent single food safety agency is needed to replace the current, fragmented system. My proposed legislation would combine the functions of USDA's Food Safety and Inspection Service, FDA's Center for

Food Safety and Applied Nutrition and the Center for Veterinary Medicine, the Department of Commerce's Seafood Inspection Program, and the food safety functions of other federal agencies. This new, independent agency would be funded with the combined budgets from these consolidated agencies.

With overlapping jurisdictions, federal agencies many times lack accountability on food safety-related issues. There are simply too many cooks in the kitchen. A single, independent agency would help focus our policy and improve enforcement of food safety and inspection laws.

The General Accounting Office has been unequivocal in its recommendation for consolidation of federal food safety programs. GAO's April 1998 report states that ''since 1992, we have frequently reported on the fragmented and inconsistent organization of food safety responsibilities in the federal government.'' In a May 25, 1994 report, GAO cites that its ''testimony is based on over 60 reports and studies issued over the last 25 years by GAO, agency Inspectors General, and others.'' The Appendix to the 1994 GAO report lists: 49 reports since 1977, 9 USDA Office of Inspector General reports since 1986, 1 HHS Office of Inspector General report in 1991, and 15 reports and studies by Congress, scientific organizations, and others since 1981.

Again, earlier this year, GAO in its 21-volume report on government waste, pointed to the lack of coordination of the federal food safety efforts as an example. ''So many cooks are spoiling the broth,'' says the GAO while highlighting the absurdity of having one federal agency inspecting frozen meat pizza and another inspecting frozen cheese pizza.

Over 20 years ago, the Senate Committee on Governmental Affairs advised that consolidation is essential to avoid conflicts of interest and overlapping jurisdictions. In a 1977 report the committee stated, ''While we support the recent efforts of FDA and USDA to improve coordination between the agencies, periodic meetings will not be enough to overcome [these] problems.'' This statement is just as true today as it was then.

It's time to move forward. Let us stop using multiple federal agencies to inspect pizza. Instead let us ''deliver'' what makes sense—a single, independent food safety agency.

A single, independent agency with uniform food safety standards and regulations based on food hazards would provide an easier framework for implementing U.S. standards in an international context. When our own agencies don't have uniform safety and inspection standards for all potentially hazardous foods, the establishment of uniform international standards will be next to impossible.

Research could be better coordinated within a single agency than among multiple programs. Currently, federal funding for food safety research is spread over at least 20 federal agencies, and coordination among those agencies is ad hoc at best.

New technologies to improve food safety could be approved more rapidly with one food safety agency. Currently, food safety technologies must go through multiple agencies for approval, often adding years of delay.

In this era of limited budgets, it is our responsibility to modernize and streamline the food safety system. The U.S. simply cannot afford to continue operating multiple systems. This is not about more regulation, a super agency, or increased bureaucracy, it's about common sense and more effective marshaling of our existing federal resources.

With the incidence of food recalls on the rise, it is important to move beyond short-term solutions to major food safety problems. A single, independent food safety and inspection agency could more easily work toward long-term solutions to the frustrating and potentially life-threatening issue of food safety.

Mr. President, together, we can bring the various agencies together to eliminate the overlap and confusion that have, unfortunately, at times characterized our food safety efforts. We need action, not simply reaction. I encourage my colleagues to join me in this effort to consolidate the food safety and inspection functions of numerous agencies and offices into a single, independent food safety agency.

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. 1281

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 ''Safe Food Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Establishment of independent Food Safety Administration.
Sec. 5. Consolidation of separate food safety and inspection services and agencies.
Sec. 6. Additional authorities of the Administration.
Sec. 7. Limitation on authorization of appropriations.
Sec. 8. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The safety and security of the food supply of the United States requires efficient and effective management of food safety regulations.

(2) The safety of the food supply of the United States is facing tremendous pressures with regard to the following issues:

(A) Emerging pathogens and the ability to detect them.

(B) An aging population with a growing number of people at high risk for foodborne illnesses.

(C) An increasing volume of imported foods, without adequate monitoring and inspection.

(D) Maintenance of adequate inspection of the domestic food processing and food service industry.

(3) Federal food safety inspection, enforcement, and research efforts should be based on scientifically supportable assessments of risks to public health.

(4) The Federal food safety system is fragmented, with at least 12 primary Federal agencies governing food safety.

(b) PURPOSES.—It is the purpose of this Act—

(1) to establish a single agency, the Food Safety Administration, that will be responsible for the regulation of food safety and labeling and for conducting food safety inspections to ensure, with reasonable certainty, that no harm will result from the consumption of food, by preventing food-borne illnesses due to microbial, natural, or chemical hazards in food; and

(2) to transfer to the Food Safety Administration the food safety, labeling, and inspection functions currently performed by other Federal agencies, to achieve more efficient management and effective application of Federal food safety laws for the protection and improvement of public health.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ADMINISTRATION.—The term ''Administration'' means the Food Safety Administration established under section 4.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of Food Safety appointed under section 4.

(3) FOOD SAFETY LAWS.—The term ''food safety laws'' means the following:

(A) The Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

(B) The Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

(C) The Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

(D) The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), with regard to food safety, labeling, and inspection under that Act.

(E) Such other laws and portions of laws regarding food safety, labeling, and inspection as the President may designate by Executive order as appropriate to consolidate under the administration of the Administration.

SEC. 4. ESTABLISHMENT OF INDEPENDENT FOOD SAFETY ADMINISTRATION.

(a) ESTABLISHMENT OF ADMINISTRATION; ADMINISTRATOR.—There is established in the executive branch an agency to be known as the ''Food Safety Administration''. The Administration shall be an independent establishment, as defined in section 104 of title 5, United States Code. The Administration shall be headed by the Administrator of Food Safety, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Administrator shall administer and enforce the food safety laws for the protection of the public health and shall oversee the following functions of the Administration:

(1) Implementation of Federal food safety inspection, enforcement, and research efforts, based on scientifically supportable assessments of risks to public health.

(2) Development of consistent and science-based standards for safe food.

(3) Coordination and prioritization of food safety research and education programs with other Federal agencies.

(4) Coordination of the Federal response to foodborne illness outbreaks with other Federal agencies and State agencies.

(5) Integration of Federal food safety activities with State and local agencies.

SEC. 5. CONSOLIDATION OF SEPARATE FOOD SAFETY AND INSPECTION SERVICES AND AGENCIES.

(a) TRANSFER OF FUNCTIONS.—For each Federal agency specified in subsection (b), there are transferred to the Administration all functions that the head of the Federal agency exercised on the day before the effective date specified in section 8 (including all related functions of any officer or employee of the Federal agency) that relate to administration or enforcement of the food safety laws, as determined by the President.

(b) COVERED AGENCIES.—The Federal agencies referred to in subsection (a) are the following:

(1) The Food Safety and Inspection Service of the Department of Agriculture.

(2) The Center for Food Safety and Applied Nutrition of the Food and Drug Administration.

(3) The Center for Veterinary Medicine of the Food and Drug Administration.

(4) The National Marine Fisheries Service of the National Oceanic and Atmospheric Administration of the Department of Commerce as it relates to the Seafood Inspection Program.

(5) Such other offices, services, or agencies as the President may designate by Executive order to further the purposes of this Act.

(c) TRANSFER OF ASSETS AND FUNDS.—Consistent with section 1531 of title 31, United States Code, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds that relate to the functions transferred under subsection (a) from a Federal agency shall be transferred to the Administration. Unexpended funds transferred pursuant to this subsection shall be used by the Administration only for the purposes for which the funds were originally authorized and appropriated.

(d) REFERENCES.—After the transfer of functions from a Federal agency under subsection (a), any reference in any other Federal law, Executive order, rule, regulation, document, or other material to that Federal agency or the head of that agency in connection with the administration or enforcement of the food safety laws shall be deemed to be a reference to the Administration or the Administrator, respectively.

(e) SAVINGS PROVISIONS.—The transfer of functions from a Federal agency under subsection (a) shall not affect—

(1) an order, determination, rule, regulation, permit, agreement, grant, contract, certificate, license, registration, privilege, or other administrative action issued, made, granted, or otherwise in effect or final with respect to that agency on the day before the transfer date with respect to the transferred functions; or

(2) any suit commenced with regard to that agency, and any other proceeding (including a notice of proposed rulemaking), or any application for any license, permit, certificate, or financial assistance pending before that agency on the day before the transfer date with respect to the transferred functions.

SEC. 6. ADDITIONAL AUTHORITIES OF THE ADMINISTRATION.

(a) OFFICERS AND EMPLOYEES.—The Administrator may appoint officers and employees for the Administration in accordance with the provisions of title 5, United States Code, relating to appointment in the competitive service, and fix the compensation of the officers and employees in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—The Administrator may procure the services of experts and consultants as authorized by section 3109 of title 5, United States Code, and pay in connection with the services travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from the homes or regular places of business of the individuals, as authorized by section 5703 of such title.

(c) BUREAUS, OFFICES, AND DIVISIONS.—The Administrator may establish within the Administration such bureaus, offices, and divisions as the Administrator may determine to be necessary to discharge the responsibilities of the Administration.

(d) RULES.—The Administrator may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules as the Administrator determines to be necessary or appropriate to administer and manage the functions of the Administrator.

SEC. 7. LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.

For the fiscal year that includes the effective date of this Act, the amount authorized to be appropriated to carry out this Act shall not exceed—

(1) the amount appropriated for that fiscal year for the Federal agencies described in section 5(b) for the purpose of administering or enforcing the food safety laws; or

(2) the amount appropriated for these agencies for such purpose for the preceding fiscal year, if, as of the effective date of this Act, appropriations for these agencies for the fiscal year that includes the effective date have not yet been made.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect on the earlier of—

(1) the date that is 180 days after the date of the enactment of this Act; and

(2) such date during that 180-day period as the President may direct in an Executive order.

By Mr. NICKLES:

S. 1284. A bill to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; to the Committee on Energy and Natural Resources.

Mr. NICKLES. Mr. President, I rise today to introduce the Electric Consumer Choice Act. For the last three years hearings and workshops have been held in both the House and Senate examining the issue of restructuring the electric industry. Many bills have been introduced on this issue by both Congressmen and Senators, some comprehensive and some dealing with more discreet issues such as repeal of the Public Utility Holding Company (PUHCA) or repeal of the Public Utility Regulatory Policies Act of 1978 (PURPA). The bill that I am introducing today cuts to the heart of the issue: do we or don't we support allowing consumers to choose their electric supplier? Do we or don't we support a national competitive market in electricity? I believe the answer to these questions is a resounding ''yes''! I believe competition is good, that free markets work and that every American will benefit from a competitive electric industry.

The Electric Consumer Choice Act is intended to begin the process of achieving a national, competitive electricity market. It achieves this in a simple, straight-forward method. Primarily, it eliminates electric monopolies by prohibiting the granting of exclusive rights to sell to electric utilities. It prohibits undue discrimination against consumers purchasing electricity in interstate commerce. It provides for access to local distribution facilities and it allows a state to impose reciprocity requirements on out-of-state utilities. The bill before you today also includes a straight repeal of PUHCA and the prospective repeal of the mandatory purchase provisions of PURPA. The bill also makes it clear that nothing in this act expands the authority of the Federal Energy Regulatory Commission (FERC) or limits the authority of a state to continue to regulate retail sales and distribution of electric energy in a manner consistent with the Commerce Clause of the United States Constitution.

The premise of this bill is that all attributes of today's electric energy market—generation, transmission, distribution and both wholesale and retail sales—are either in or affect interstate commerce. Therefore, any State regulation of these attributes that unduly discriminates against the interstate market for electric power violates the Commerce Clause unless such State action is protected by an act of Congress.

The Supreme Court has interpreted Part II of the Federal Power Act (FPA) as protecting State regulation of generation, local distribution, intrastate transmission and retail sales that unduly discriminates against the interstate market for electric power. The Court has reasoned that Congress, in the FPA, determined that the federal government needed only to regulate wholesale sales and interstate transmission in order to adequately protect interstate commerce in electric energy. Thus, all other aspects of the electric energy market were reserved to the States and protected from challenges under the Commerce Clause. The Electric Consumer Choice Act amends the FPA to eliminate the protection provided for State regulation that establishes, maintains, or enforces an exclusive right to sell electric energy or that unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce.

This bill provides consumers and electric energy suppliers with the means to achieve retail choice in all States by January 1, 2002. It does not impose a federal statutory mandate on the States. It does not preempt the States' traditional jurisdiction to regulate the aspects of the electric power market in the reserved realm—generation, local distribution, intrastate transmission, or retail sales—it merely limits the scope of what the States can do in that realm. It does not expand or extend FERC jurisdiction into the aspects of traditional State authority.

As I stated earlier, this bill is intended to provide every consumer a

choice when it comes to electricity suppliers. It is intended to be the beginning, not the end of the process. There are many other issues that need to be addressed at the federal level to facilitate a national market for electricity. Some of these issues include taxation differences between various electric providers, clarification of jurisdiction over transmission, ensuring reliability, providing for inclusion of the Power Marketing Administrations and the Tennessee Valley Authority in a national market, and other issues that can only be addressed at the Federal level. These issues need to be addressed and should be addressed. But while these issues are being debated we should ensure that progress towards customer choice proceeds.

I am proud to say that my state of Oklahoma has been in the forefront of opening up it's electricity markets to competition. Nineteen other states have also moved to open their markets. It is my hope that the Electric Consumer Choice Act will facilitate this process nationally. To that end, I am introducing this bill today.

Mr. President, I ask unanimous consent that the Electric Consumer Choice Act be printed in the RECORD.

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

S. 1284

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 ''Electric Consumer Choice Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(a) the opportunity for all consumers to purchase electric energy in interstate commerce from the supplier of choice is essential to a dynamic, fully integrated and competitive national market for electric energy;

(b) the establishment, maintenance or enforcement of exclusive rights to sell electric energy and other State action which unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce from the supplier of its choice constitutes an unwarranted and unacceptable discrimination against and burden on interstate commerce;

(c) in today's technologically driven marketplace there is no justification for the discrimination against and burden imposed on interstate commerce by exclusive rights to sell electric energy or other State action which unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce from the supplier of its choice; and,

(d) the electric energy transmission and local distribution facilities of all of the nation's utilities are essential facilities for the conduct of a competitive interstate retail market in electric energy in which all consumers have the opportunity to purchase electric energy in interstate commerce from the supplier of their choice.

SEC. 3. DECLARATION OF PURPOSE.

The purpose of this act is to ensure that nothing in the Federal Power Act or any other federal law exempts or protects from Article I, Section 8, Clause 3 of the Constitution of the United States exclusive rights to sell electric energy or any other State actions which unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from the supplier of its choice.

SEC. 4. SCOPE OF STATE AUTHORITY UNDER THE FEDERAL POWER ACT.

Section 201 of the Federal Power Act (16 U.S.C. §824) is amended by adding at the end the following—

''(h) Notwithstanding any other provision of this section, nothing in this Part or any other federal law shall be construed to authorize a State to—

''(1) establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy; or,

''(2) otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier.''.

SEC. 5. ACCESS TO TRANSMISSION AND LOCAL DISTRIBUTION FACILITIES.

No supplier of electric energy, who would otherwise have a right of access to a transmission or local distribution facility because such facility is an essential facility for the conduct of interstate commerce in electric energy, shall be denied access to such facility or precluded from engaging in the retail sale of electric energy on the grounds that such denial or preclusion is authorized or required by State action establishing, maintaining, or enforcing an exclusive right to sell, transmit, or locally distribute electric energy.

SEC. 6. STATE AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

Part II of the Federal Power Act (16 U.S.C. §824) is amended by adding at the end the following:

''SEC. 215. STATE AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

''A State or state commission may prohibit an electric utility from selling electric energy to an ultimate consumer in such State if such electric utility or any of its affiliates owns or controls transmission or local distribution facilities and is not itself providing unbundled local distribution service in a State in which such electric utility owns or operates a facility used for the generation of electric energy.''.

SEC. 7. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) is repealed, effective on and after the enactment of this Act.

SEC. 8 PROSPECTIVE REPEAL OF SECTION 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978.

(a) NEW CONTRACTS.—No electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3).

(b) EXISTING RIGHTS AND REMEDIES.—Nothing in this section affects the rights or remedies of any party with respect to the purchase or sale of electricity or capacity from or to a facility determined to be a qualifying small power production facility or a qualifying cogeneration facility under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) under any contract or obligation to purchase or to sell electricity or capacity in effect on the date of enactment of this Act, including the right to recover the costs of purchasing the electricity or capacity.

SEC. 9. SAVINGS CLAUSE.

Nothing in this Act shall be construed to—

(a) authorize the Federal Energy Regulatory Commission to regulate retail sales or local distribution of electric energy or otherwise expand the jurisdiction of the Commission, or,

(b) limit the authority of a State to regulate retail sales and local distribution of electric energy in a manner consistent with Article I, Section 8, Clause 3 of the Constitution of the United States.

SEC. 10. EFFECTIVE DATES.

Section 5 and the amendment made by Section 4 of this act take effect on January 1, 2002. The amendment made by section 6 of this act takes effect on the date of enactment of this act.

By Mr. GRAHAM (for himself, Mr. DEWINE, and Mr. FEINGOLD):

S. 1285. A bill to amend section 40102(37) of title 49, United States Code, to modify the definition of the term ''public aircraft'' to provide for certain law enforcement and emergency response activities; to the Committee on Commerce, Science, and Transportation.

LAW ENFORCEMENT PUBLIC AVIATION REFORM ACT OF 1999

• Mr. GRAHAM. Mr. President, I am extremely pleased to join with my distinguished colleagues, Senator DEWINE and Senator FEINGOLD, in introducing the Law Enforcement Public Aviation Reform Act of 1999. This legislation will help law enforcement officers in their efforts to protect our citizens. In 1994, the Congress made a terrible mistake when it passed Public Law 103–411. Under this law, aircraft belonging to law enforcement agencies are considered ''commercial'' if costs incurred from flying missions to support neighboring jurisdictions are reimbursed.

In the last Congress, we were able to include an amendment on the Commerce, State, and Justice appropriations bill that would have made the necessary changes. Unfortunately, this measure was stripped from the final conference committee report.

This law has placed unnecessary restrictions and costly burdens on government agencies who operate public aircraft, particularly law enforcement agencies. At a time when law enforcement faces growing sophistication and organization of criminals, the federal government should not be placing additional mandates on our law enforcement officials. This law is so restrictive that it even prevents assistance from neighboring jurisdictions under mutual aid compacts.

Current law requires that the agency in need of assistance exhaust all commercially available options before requesting assistance from another jurisdiction. Even in the event of ''significant and imminent threat to life or property,'' the requesting agency must first establish that ''no service by a private operator was reasonably available to meet the threat.'' Law officers, pledged to protect public safety and fight crime, need the flexibility to determine the appropriate aircraft for any particular mission. They should not be required to offer private companies the right of first refusal on sensitive law enforcement missions. In

many cases, it is simply not appropriate to have private companies performing law enforcement or other governmental functions.

Under this bill, public agencies would be permitted to recover costs incurred by operating aircraft to assist other jurisdictions for the purpose of law enforcement, search and rescue, or imminent threat to life, property or natural resources.

Mr. President, law enforcement organizations strongly support this bill. This legislation has the endorsement of the National Sheriff's Association, Airborne Law Enforcement Association, International Association of Chiefs of Police, Florida Sheriff's Association, and the California State Sheriff's Associations. From my home state in Florida, I have heard from Sheriff George E. Knupp, Jr. of Lake County. Sheriff Knupp stated, ''Current law restricts our ability to use this aircraft in the best possible manner and frankly, the law questions the authority of a popularly elected official to exercise the duties and responsibilities of the office.''

Our bipartisan proposed is simple, sound, and will serve the interests of law enforcement officials across this country. I urge all my colleagues to support the passage of this much needed legislation. Further delay in this matter will only serve to cost the American people unnecessary tax dollars and hamper the efforts of our law enforcement officials.●

● Mr. FEINGOLD. Mr. President, I rise today to join my distinguished colleague from Florida, Senator GRAHAM, to introduce a bill that will assist our local law enforcement agencies to respond in a timely fashion to life or death situations.

Sheriffs in my state and around this country have found that their hands are tied when it comes to sharing helicopters or other public aircraft with neighboring jurisdictions. The Milwaukee County Sheriff's Department recently became the first sheriff's department in Wisconsin to acquire a helicopter. Neighboring counties would like to borrow that helicopter and reimburse the Milwaukee County Sheriff for the cost of their use of that helicopter. The Milwaukee County Sheriff's Department is perfectly willing to share its helicopter but it can't easily do so. Under current law, in order for the assisting agency to receive a cost reimbursement from the neighboring jurisdiction for use of a helicopter, the neighboring sheriff must first exhaust the possibility that a private commercial helicopter is available. Even when the neighboring sheriff is faced with a serious imminent threat to life or property, the law requires the neighboring sheriff to first determine whether a privately operated helicopter is available. This law is absurd and puts everyone's safety at risk.

Law enforcement agencies use helicopters for a variety of reasons—to chase a suspect fleeing the scene of a crime, in search and rescue missions, to control crowds in public gatherings, to transport prisoners and to detect and eradicate marijuana. Saving lives and maintaining law and order is delayed if we require sheriffs to determine first whether they can find a private helicopter. Public safety is also jeopardized because private commercial pilots are likely not trained law enforcement personnel with experience in sensitive and sometimes dangerous situations. But if we allow sheriffs to share their aircraft with neighboring jurisdictions without first exhausting private avenues, law enforcement response is far more likely to be swift and sure.

This bill modifies the definition of ''public aircraft'' so that law enforcement agencies no longer need to make an attempt to find a private helicopter operator before using a neighboring jurisdiction's helicopter.

Mr. President, we demand that law enforcement act quickly and professionally to life or death situations. But we're not giving them the tools they need to do their job. We must do our part. I urge my colleagues to join in this bipartisan effort to change the law and give the sheriffs in Wisconsin and across this country the tools they need to keep our communities safe and secure.●

By Mrs. BOXER (for herself and Mr. DURBIN):

S. 1286. A bill to authorize the Attorney General to make grants to local educational agencies to carry out school violence prevention and school safety activities in secondary schools; to the Committee on the Judiciary.

SCHOOL SAFETY FUND ACT

Mrs. BOXER. Mr. President, it has been two months since the tragic shooting at Columbine High School in Colorado. That incident heightened awareness around the country—and I saw it first hand when I traveled throughout California—of the need to take steps to make our schools safer.

It seems to me that being safe in school is a fundamental right. It ought to be a top priority of every school district in America—and I know that a lot of schools are committed to making improvements. But some are having a hard time finding the money to do what needs to be done. I believe it ought to be a top priority of the federal government to help localities do what they need to do to ensure the safety of our children when they are in school.

So, today, I am introducing, along with my colleague, Senator DURBIN, the School Safety Fund Act. This bill would allow the Attorney General to provide grants to school districts to undertake a variety of activities to prevent school violence and to make our schools safer. The key is we want local schools to make the decision about what they need to do, but we want the federal government to provide some financial help.

Now, what are some of the things that schools want to—and should—do?

Schools could establish hotlines and tiplines, so that students could anonymously report potentially dangerous situations. We could put more community police officers in the public schools. Some schools need metal detectors and other security equipment. I think almost all schools could use more counselors, psychologists, and school social workers. Many teachers and administrators need training on the identification of the early warning signs of troubled youth. And, many of our students need conflict resolution programs and mentoring.

The point is, each school needs to decide the extent of its problem and what the best solution will be in that community. We are not dictating here. We are saying that we want to—we need to—help our local schools.

Let me talk about how these grants will be funded, because I think it is an interesting approach. Rather than set up a specific authorization level—rather than pulling a number out of a hat and saying, this is the need—my bill would give discretion to the Attorney General. The bill says that the Attorney General can make these grants out of the Violent Crime Reduction Trust Fund to meet the need that is out there.

For example, if there is a particular crisis in a particular community, the Attorney General has the flexibility to make grants. She does not have to wait for Congress to act—or watch as Congress fails to act. If the problem improves, the Attorney General can spend less or, perhaps someday, no money at all for school safety. Again, the number of grants would be based on an assessment of the needs.

Finally, let me say a word about my cosponsor, Senator DURBIN. I am very pleased to have him join me in this effort because several weeks ago, he fought this fight hard. He was a member of the conference committee on the supplemental appropriations bill, and he tried to get additional emergency funding—and it was and still is, in many respects, an emergency—for many of the activities we are talking about in this bill. Some on the other side of the aisle resisted his efforts, and eventually they voted him down. But, with his previous work on the subject, I am so pleased that he has joined me on this bill.

Mr. President, it is now mid-June, and many schools are closed for the summer or will close shortly. We must reject the notion that because our children are no longer in school, there is no longer a problem. There is a problem, and unless we begin to find ways to solve it—and unless the federal government helps fund the solutions our local communities come up with—I fear that when the school house doors open again in the Fall, the problem might again hit the front pages of the newspapers.

I urge my colleagues to support this bill, and I ask unanimous consent that a copy be printed in the RECORD.

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

S. 1286

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 ''School Safety Fund Act of 1999''.

SEC. 2. DEFINITIONS.

In this Act, the terms ''local educational agency'' and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 3. PURPOSE.

The purpose of this Act is to assist local educational agencies in preventing and responding to the threat of juvenile violence in secondary schools through the implementation of effective school violence prevention and school safety programs.

SEC. 4. PROGRAM AUTHORIZED.

The Attorney General is authorized to carry out a program under which the Attorney General awards grants to local educational agencies to assist the local educational agencies in establishing and operating school violence prevention and school safety activities in secondary schools.

SEC. 5. APPLICATIONS.

Each local educational agency desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require. Each application shall—

(1) include a detailed explanation of—

(A) the intended uses of funds provided under the grant; and

(B) how the activities funded under the grant will meet the purpose of this Act; and

(2) a written assurance that the funds provided under the grant will be used to supplement and not supplant other State and local public funds available for school violence prevention and school safety activities in secondary schools.

SEC. 6. AUTHORIZED ACTIVITIES.

A local educational agency may use grant funds provided under this Act—

(1) to establish hotlines or tiplines for the reporting of potentially dangerous students and situations;

(2) to hire community police officers;

(3) to purchase metal detectors, surveillance cameras, and other school security equipment;

(4) to provide training to teachers, administrators, and other school personnel in the identification and detection of, and responses to, early warning signs of troubled and potentially violent youth;

(5) to establish conflict resolution, counseling, mentoring, and other violence prevention and intervention programs for students;

(6) to hire counselors, psychologists, mental health professionals, and school social workers; and

(7) for any other purpose that the Attorney General determines to be appropriate and consistent with the purpose of this Act.

SEC. 7. FUNDING.

From amounts appropriated to the Department of Justice from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211), the Attorney General may make available such sums as may be necessary to carry out this Act for each of the fiscal years 2000 through 2004.

SEC. 8. REPORT TO CONGRESS.

Not later than November 30th of each year, the Attorney General shall report to Congress regarding the number of grants funded under this Act for the preceding fiscal year, the amount of funds provided under the grants for the preceding fiscal year, and the activities for which grant funds were used for the preceding fiscal year.

ADDITIONAL COSPONSORS

S. 71

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 71, a bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes.

S. 348

At the request of Ms. SNOWE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 348, a bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

S. 386

At the request of Mr. GORTON, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 631

At the request of Mr. DEWINE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 655

At the request of Mr. LOTT, the names of the Senator from Tennessee (Mr. THOMPSON), the Senator from Kansas (Mr. ROBERTS), the Senator from Wyoming (Mr. ENZI), the Senator from Utah (Mr. HATCH), and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 655, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 693

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. SESSIONS) 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. 712

At the request of Mr. LOTT, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 712, a bill to amend title 39, United States Code, to allow postal patrons to contribute to funding for highway-rail grade crossing safety through the voluntary purchase of certain specially issued United States postage stamps.

S. 801

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 817

At the request of Mrs. BOXER, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 817, a bill to improve academic and social outcomes for students and reduce both juvenile crime and the rist that youth will become victims of crime by providing productive activities during after school hours.

S. 894

At the request of Mr. CLELAND, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 894, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

S. 911

At the request of Mr. GRAMS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 911, a bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes.

S. 1023

At the request of Mr. MOYNIHAN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1023, a bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments.

S. 1144

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1144, a bill to provide increased flexibility in use of highway funding, and for other purposes.

S. 1157

At the request of Mr. SESSIONS, his name was added as a cosponsor of S. 1157, a bill to repeal the Davis-Bacon Act and the Copeland Act.

S. 1172

At the request of Mr. TORRICELLI, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1172, a bill to provide a patent term restoration review procedure for certain drug products.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1200, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1212

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Mr.

STEVENS) was added as a cosponsor of S. 1212, a bill to restrict United States assistance for certain reconstruction efforts in the Balkans region of Europe to United States-produced articles and services.

S. 1241

At the request of Mr. ASHCROFT, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 1241, a bill to amend the Fair Labor Standards Act of 1938 to provide private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 1264

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1264, a bill to amend the Elementary and Secondary Education Act of 1965 and the National Education Statistics Act of 1994 to ensure that elementary and secondary schools prepare girls to compete in the 21st century, and for other purposes.

S. 1265

At the request of Mr. COVERDELL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1265, a bill to require the Secretary of Agriculture to implement the Class I milk price structure known as Option 1-A as part of the implementation of the final rule to consolidate Federal milk marketing orders.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of Senate Concurrent Resolution 34, A concurrent resolution relating to the observence of ''In Memory'' Day.

SENATE CONCURRENT RESOLUTION 39

At the request of Mr. SCHUMER, the names of the Senator from Missouri (Mr. BOND), the Senator from Ohio (Mr. DEWINE), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of Senate Concurrent Resolution 39, A concurrent resolution expressing the sense of the Congress regarding the treatment of religious minorities in the Islamic Republic of Iran, and particularly the recent arrests of members of that country's Jewish community.

SENATE RESOLUTION 59

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Resolution 59, a resolution designating both July 2, 1999, and July 2, 2000, as ''National Literacy Day.''

SENATE RESOLUTION 95

At the request of Mr. THURMOND, the name of the Senator from Nevada (Mr. REID) 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 Washington (Mrs. MURRAY) was added as a cosponsor of Senate Resolution 99, a resolution designating November 20, 1999, as ''National Survivors for Prevention of Suicide Day.''

SENATE CONCURRENT RESOLUTION—EXPRESSING THE SENSE OF THE CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED BY THE UNITED STATES POSTAL SERVICE HONORING THE MEMBERS OF THE ARMED FORCES WHO HAVE BEEN AWARDED THE PURPLE HEART

Mr. ROBB submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S CON. RES. 42

Whereas Order of the Purple Heart for Military Merit, commonly known as the Purple Heart, is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force or while held by an enemy force as a prisoner of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit or the Decoration of the Purple Heart;

Whereas the award of the Purple Heart ceased with the end of the War of the Revolution, but was revived out of respect for the memory and military achievements of George Washington in 1932, the year marking the 200th anniversary of his birth; and

Whereas 1999 is the year marking the 200th anniversary of the death of George Washington: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a commemorative postage stamp should be issued by the United States Postal Service honoring the members of the Armed Forces who have been awarded the Purple Heart; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued in 1999, the year marking the 200th anniversary of the death of George Washington.

● Mr. ROBB. Mr. President, I would like to take this opportunity to submit a resolution honoring our veterans that have earned the oldest military decoration in the world, the Purple Heart. This resolution expresses the Sense of the Congress that the U.S. Postal Service should issue a postage stamp honoring Purple Heart recipients.

The Purple Heart was established by General George Washington in 1782 as a badge of distinction for ''meritorious action.'' After the Revolutionary War, however, the Purple Heart was not awarded again until it was revived in 1932, the year marking the 200th anniversary of Washington's birth.

Today, the Purple Heart is awarded to members of the U.S. armed forces who are wounded by an instrument of war in the hands of the enemy. Additionally, it is awarded posthumously to next of kin in the name of those who are killed in action or die of wounds received in combat. This year, the 200th anniversary of George Washington's death, is a fitting time for the Postal Service to honor our Purple Heart recipients with a commemorative postage stamp. They deserve no less.●

AMENDMENTS SUBMITTED

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

ASHCROFT (AND OTHERS) AMENDMENT NO. 736

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. HAGEL, Mr. BAUCUS, Mr. ROBERTS, Mr. KERREY, and Mr. DODD) submitted an amendment intended to be proposed by them to the bill (S. 1233), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7___. REQUIREMENT OF CONGRESSIONAL APPROVAL OF ANY UNILATERAL AGRICULTURAL OR MEDICAL SANCTION.—(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term ''agricultural commodity'' has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

(B) EXCLUSION.—The term ''agricultural commodity'' does not include any agricultural commodity that is used to facilitate the development or production of a chemical or biological weapon.

(2) AGRICULTURAL PROGRAM.—The term ''agricultural program'' means—

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et. seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any commercial sale of agricultural commodities, including a commercial sale of an agricultural commodity that is prohibited under a unilateral agricultural sanction that is in effect on the date of enactment of this Act; or

(D) any export financing (including credits or credit guarantees) for agricultural commodities.

(3) JOINT RESOLUTION.—The term ''joint resolution'' means—

(A) in the case of subsection (b)(1)(B), only a joint resolution introduced within 10 session days of Congress after the date on which

the report of the President under subsection (b)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section ___(b)(1)(A) of the _____ Act ___, transmitted on _____.'', with the blank completed with the appropriate date; and

(B) in the case of subsection (e)(2), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (e)(1) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section ___(e)(1) of the _____ Act ___, transmitted on _____.'', with the blank completed with the appropriate date.

(4) MEDICAL DEVICE.—

(A) IN GENERAL.—The term ''medical device'' has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(B) EXCLUSION.—The term ''medical device'' does not include any device that is used to facilitate the development or production of a chemical or biological weapon.

(5) MEDICINE.—

(A) IN GENERAL.—The term ''medicine'' has the meaning given the term ''drug'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(B) EXCLUSION.—The term ''medicine'' does not include any drug that is used to facilitate the development or production of a chemical or biological weapon.

(6) UNILATERAL AGRICULTURAL SANCTION.—The term ''unilateral agricultural sanction'' means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(7) UNILATERAL MEDICAL SANCTION.—The term ''unilateral medical sanction'' means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(b) RESTRICTION.—

(1) NEW SANCTIONS.—Except as provided in subsections (c) and (d) and notwithstanding any other provision of law, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity for any fiscal year, unless—

(A) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that—

(i) describes the activity proposed to be prohibited, restricted, or conditioned; and

(ii) describes the actions by the foreign country or foreign entity that justify the sanction; and

(B) Congress enacts a joint resolution stating the approval of Congress for the report submitted under subparagraph (A).

(2) EXISTING SANCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act for any fiscal year, the President shall immediately cease to implement such sanction.

(B) EXEMPTIONS.—Subparagraph (A) shall not apply to a unilateral agricultural sanction or unilateral medical sanction imposed with respect to an agricultural program or activity described in subparagraph (B) or (D) of subsection (a)(2).

(c) EXCEPTIONS.—The President may impose (or continue to impose) a sanction described in subsection (b) without regard to the procedures required by that subsection—

(1) against a foreign country or foreign entity with respect to which Congress has enacted a declaration of war that is in effect on or after the date of enactment of this Act; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity that is controlled on—

(A) the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

(B) any control list established under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—This section shall not affect the prohibition on providing assistance to the government of any country supporting international terrorism that is established by section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(e) TERMINATION OF SANCTIONS.—Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in subsection (b)(1) shall terminate not later than 2 years after the date on which the sanction became effective unless—

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years and the request of the President for approval by Congress of the recommendation; and

(2) Congress enacts a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(f) CONGRESSIONAL PRIORITY PROCEDURES.—

(1) REFERRAL OF REPORT.—A report described in subsection (b)(1)(A) or (e)(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(2) REFERRAL OF JOINT RESOLUTION.—

(A) IN GENERAL.—A joint resolution shall be referred to the committees in each House of Congress with jurisdiction.

(B) REPORTING DATE.—A joint resolution referred to in subparagraph (A) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

(3) DISCHARGE OF COMMITTEE.—If the committee to which is referred a joint resolution has not reported the joint resolution (or an identical joint resolution) at the end of 30 session days of Congress after the date of introduction of the joint resolution—

(A) the committee shall be discharged from further consideration of the joint resolution; and

(B) the joint resolution shall be placed on the appropriate calendar of the House concerned.

(4) FLOOR CONSIDERATION.—

(A) MOTION TO PROCEED.—

(i) IN GENERAL.—When the committee to which a joint resolution is referred has reported, or when a committee is discharged under paragraph (3) from further consideration of, a joint resolution—

(I) it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the House concerned to move to proceed to the consideration of the joint resolution; and

(II) all points of order against the joint resolution (and against consideration of the joint resolution) are waived.

(ii) PRIVILEGE.—The motion to proceed to the consideration of the joint resolution—

(I) shall be highly privileged in the House of Representatives and privileged in the Senate; and

(II) not debatable.

(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—The motion to proceed to the consideration of the joint resolution shall not be subject to—

(I) amendment;

(II) a motion to postpone; or

(III) a motion to proceed to the consideration of other business.

(iv) MOTION TO RECONSIDER NOT IN ORDER.—A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(v) BUSINESS UNTIL DISPOSITION.—If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the House concerned until disposed of.

(B) LIMITATIONS ON DEBATE.—

(i) IN GENERAL.—Debate on the joint resolution, and on all debatable motions and appeals in connection with the joint resolution, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution.

(ii) FURTHER DEBATE LIMITATIONS.—A motion to limit debate shall be in order and shall not be debatable.

(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—An amendment to, a motion to postpone, a motion to proceed to the consideration of other business, a motion to recommit the joint resolution, or a motion to reconsider the vote by which the joint resolution is agreed to or disagreed to shall not be in order.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House concerned, the vote on final passage of the joint resolution shall occur.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—An appeal from a decision of the Chair relating to the application of the rules of the Senate or House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, the following procedures shall apply:

(A) NO COMMITTEE REFERRAL.—The joint resolution of the other House shall not be referred to a committee.

(B) FLOOR PROCEDURE.—With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(C) DISPOSITION OF JOINT RESOLUTIONS OF RECEIVING HOUSE.—On disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution originated in the receiving House.

(6) PROCEDURES AFTER ACTION BY BOTH THE HOUSE AND SENATE.—If a House receives a joint resolution from the other House after the receiving House has disposed of a joint

resolution originated in that House, the action of the receiving House with regard to the disposition of the joint resolution originated in that House shall be deemed to be the action of the receiving House with regard to the joint resolution originated in the other House.

(7) RULEMAKING POWER.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such this subsection—

(i) is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution; and

(ii) supersedes other rules only to the extent that this subsection is inconsistent with those rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(g) EFFECTIVE DATE.—This section takes effect 180 days after the date of enactment of this Act.

FEINSTEIN AMENDMENT NO. 737

Mrs. FEINSTEIN proposed an amendment to the bill, S. 1233, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. PROMOTING GOOD MEDICAL PRACTICE.

(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:

"SEC. 714. PROMOTING GOOD MEDICAL PRACTICE.

''(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

''(1) IN GENERAL.—A group health plan, or a health insurance issuer in connection with health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

''(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

''(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term 'manner or setting' means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital. Such term does not include the coverage of a particular service or treatment.

''(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

''(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term 'medically necessary or appropriate' means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

''(d) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any provision of this subchapter, the group health plan shall not be liable for such violation unless the plan caused such violation.

''(e) APPLICABILITY.—The provisions of this section shall apply to group health plans and health insurance issuers as if included in—

''(1) subpart 2 of part A of title XXVII of the Public Health Service Act;

''(2) the first subpart 3 of part B of title XXVII of the Public Health Service Act (relating to other requirements); and

''(3) subchapter B of chapter 100 of the Internal Revenue Code of 1986.

''(f) NO IMPACT ON SOCIAL SECURITY TRUST FUND.—

''(1) IN GENERAL.—Nothing in this section shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

''(2) TRANSFERS.—

''(A) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this section has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

''(B) TRANSFER OF FUNDS.—If, under subparagraph (A), the Secretary of the Treasury estimates that the enactment of this section has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such section.

''(g) LIMITATION ON ACTIONS.—

''(1) IN GENERAL.—Except as provided for in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) of section 502 by a participant or beneficiary seeking relief based on the application of any provision in this section.

''(2) PERMISSIBLE ACTIONS.—An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) of section 502 by a participant or beneficiary seeking relief based on the application of this section to the individual circumstances of that participant or beneficiary; except that—

''(A) such an action may not be brought or maintained as a class action; and

''(B) in such an action relief may only provide for the provision of (or payment for) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.''.

''(h) EFFECTIVE DATE.—The provisions of this section shall apply to group health plans for plan year beginning after, and to health insurance issuer for coverage offered or sold after, October 1, 2000.''.

(b) INFORMATION REQUIREMENTS.—

(1) INFORMATION FROM GROUP HEALTH PLANS.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following:

''(7) INFORMATION FROM GROUP HEALTH PLANS.—

''(A) PROVISION OF INFORMATION BY GROUP HEALTH PLANS.—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than 4 times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

''(B) PROVISION OF INFORMATION BY EMPLOYERS AND EMPLOYEE ORGANIZATIONS.—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

''(C) INFORMATION ELEMENTS.—The information elements described in this subparagraph are the following:

''(i) ELEMENTS CONCERNING THE INDIVIDUAL.—

''(I) The individual's name.

''(II) The individual's date of birth.

''(III) The individual's sex.

''(IV) The individual's social security insurance number.

''(V) The number assigned by the Secretary to the individual for claims under this title.

''(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

''(ii) ELEMENTS CONCERNING THE FAMILY MEMBER WITH CURRENT OR FORMER EMPLOYMENT STATUS.—

''(I) The name of the person in the individual's family who has current or former employment status with the employer.

''(II) That person's social security insurance number.

''(III) The number or other identifier assigned by the plan to that person.

''(IV) The periods of coverage for that person under the plan.

''(V) The employment status of that person (current or former) during those periods of coverage.

''(VI) The classes (of that person's family members) covered under the plan.

''(iii) PLAN ELEMENTS.—

''(I) The items and services covered under the plan.

''(II) The name and address to which claims under the plan are to be sent.

''(iv) ELEMENTS CONCERNING THE EMPLOYER.—

''(I) The employer's name.

''(II) The employer's address.

''(III) The employer identification number of the employer.

''(D) USE OF IDENTIFIERS.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

''(E) PENALTY FOR NONCOMPLIANCE.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 180

days after the date of the enactment of this Act.

(c) MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.—

(1) IN GENERAL.—Section 904(c) (relating to limitation on credit) is amended—

(A) by striking ''in the second preceding taxable year,'', and

(B) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to credits arising in taxable years beginning after December 31, 2001.

(d) LIMITATIONS ON WELFARE BENEFIT FUNDS OF 10 OR MORE EMPLOYER PLANS.—

(1) BENEFITS TO WHICH EXCEPTION APPLIES.—Section 419A(f)(6)(A) (relating to exception for 10 or more employer plans) is amended to read as follows:

''(A) IN GENERAL.—This subpart shall not apply to a welfare benefit fund which is part of a 10 or more employer plan if the only benefits provided through the fund are 1 or more of the following:

''(i) Medical benefits.

''(ii) Disability benefits.

''(iii) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed, or pledged for collateral for a loan.

The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.''

(2) LIMITATION ON USE OF AMOUNTS FOR OTHER PURPOSES.—Section 4976(b) (defining disqualified benefit) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR 10 OR MORE EMPLOYER PLANS EXEMPTED FROM PREFUNDING LIMITS.—For purposes of paragraph (1)(C), if—

''(A) subpart D of part I of subchapter D of chapter 1 does not apply by reason of section 419A(f)(6) to contributions to provide 1 or more welfare benefits through a welfare benefit fund under a 10 or more employer plan, and

''(B) any portion of the welfare benefit fund attributable to such contributions is used for a purpose other than that for which the contributions were made,

then such portion shall be treated as reverting to the benefit of the employers maintaining the fund.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

MOYNIHAN AMENDMENTS NOS. 738–860

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted 123 amendments intended to be proposed by him to the bill (S. 1143) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes; as follows:

AMENDMENT NO. 738

At the appropriate place, insert:

SEC. 3___. STATE AUTHORITY OVER CRUISES-TO-NOWHERE.

Section 5 of the Act entitled ''An Act to prohibit transportation of gambling devices in interstate and foreign commerce'', approved January 2, 1951 (15 U.S.C. 1175), (popularly known as the ''Johnson Act'') is amended—

(1) in subsection (b)(2)(A), by striking ''enacted'' and inserting ''in effect''; and

(2) by adding at the end the following:

''(d) NO PREEMPTION OF STATE LAWS.—Nothing in this section shall be construed to preempt the law of any State, the District of Columbia, Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or possession of the United States.''.

AMENDMENT NO. 739

At the appropriate place in title III, insert the following:

SEC. 3___. TRANSFER OF MOTOR CARRIER SAFETY FUNCTIONS FROM THE FEDERAL HIGHWAY ADMINISTRATION TO THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

(a) TRANSFER OF FUNCTIONS FROM FEDERAL HIGHWAY ADMINISTRATION.—Section 104(c) of title 49, United States Code, is amended—

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

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) TRANSFER OF FUNCTIONS TO NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.—Section 105(c) of title 49, United States Code, is amended—

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

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315; and''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

(2) ACTIONS BY THE SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may take such action as may be necessary to ensure the orderly transfer of the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code, and employees carrying out such duties and power, from the Federal Highway Administration to the National Highway Traffic Safety Administration.

AMENDMENT NO. 740

On page 91, between lines 9 and 10, insert the following:

TITLE ____—HIGHWAY TAX EQUITY AND SIMPLIFICATION

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Highway Tax Equity and Simplification Act of 1999''.

SEC. ___2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Congress should enact legislation to correct the distribution of the tax burden among the various classes of persons using the Federal-aid highways, or otherwise deriving benefits from such highways;

(2) the most recent highway cost allocation study by the Department of Transportation found that owners of heavy trucks significantly underpay Federal highway user fees relative to the costs such vehicles impose on such highways, while owners of lighter trucks and cars overpay such fees;

(3) pavement wear and tear is directly correlated with axle-weight loads and distance traveled, and to the maximum extent possible, Federal highway user fees should be structured based on this fundamental fact of use and resulting cost;

(4) the current Federal highway user fee structure is not based on this fundamental fact of use and resulting cost; to the contrary—

(A) the 12-percent excise tax applied to the sales of new trucks has no significant relationship to pavement damage or road use and does the poorest job of improving tax equity,

(B) the heavy vehicle use tax does not equitably apply to heavy trucks (such tax is capped with respect to trucks weighing over 75,000 pounds) and does not vary by annual mileage, thus 2 heavy trucks traveling 10,000 miles and 100,000 miles, respectively, pay the same heavy vehicle use tax, and

(C) diesel fuel taxes do a poor job recovering pavement costs because such taxes only increase marginally with weight increases while pavement damage increases exponentially with weight, and increasing the rates for diesel fuel will not resolve this fundamental flaw;

(5) truck taxes based on a combination of the weight of vehicles and the distance such trucks travel provide greater equity than a tax based on either of these 2 factors alone; and

(6) the States generally have in place mechanisms for verifying the registered weight of trucks and the miles such trucks travel.

(b) PURPOSES.—The purposes of this title are—

(1) to replace the heavy vehicle use tax and all other Federal highway user charges (except fuel taxes) with a Federal weight-distance tax which is designed to yield at least equal revenues for highway purposes and to provide equity among highway users; and

(2) to provide that such a tax be administered in cooperation with the States.

SEC. ___3. REPEAL AND REDUCTION OF CERTAIN HIGHWAY TRUST FUND TAXES.

(a) REPEAL OF HEAVY VEHICLE USE TAX.—Subchapter D of chapter 36 of the Internal Revenue Code of 1986 (relating to tax on use of certain vehicles) is repealed.

(b) REPEAL OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—Section 4051(c) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(c) REPEAL OF TAX ON TIRES.—Section 4071(d) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(d) REDUCTION OF TAX RATE ON DIESEL FUEL TO EQUAL RATE ON GASOLINE.—Section 4081(a)(2)((A)(iii) of the Internal Revenue Code of 1986 (relating to rates of tax) is amended by striking ''24.3 cents'' and inserting ''18.3 cents''.

(e) CONFORMING AMENDMENTS.—

(1) Section 4221(a) of the Internal Revenue Code of 1986 (relating to certain tax-free sales) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(2) Subchapter A of chapter 62 of such Code (relating to place and due date for payment of tax) is amended by striking section 6156.

(3) The table of sections for subchapter A of chapter 62 of such Code is amended by striking the item relating to section 6156.

(4) Section 9503(b)(1) of such Code (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by striking subparagraphs (B) and (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively

SEC. ___4. TAX ON USE OF CERTAIN VEHICLES BASED ON WEIGHT-DISTANCE RATE.

(a) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986, as amended by section

____3(a), is amended by adding at the end the following:

"Subchapter D—Tax on Use of Certain Vehicles

''Sec. 4481. Imposition of tax.

''Sec. 4482. Definitions.

''Sec. 4483. Exemptions.

''Sec. 4484. Cross references.

"SEC. 4481. IMPOSITION OF TAX.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—A tax is hereby imposed on the use of any highway motor vehicle (either in a single unit or combination configuration) which, together with the semitrailers and trailers customarily used in connection with highway vehicles of the same type as such highway motor vehicle, has a taxable gross weight of over 25,000 pounds at the rate of—

''(A) the cents per mile rate specified in the table contained in paragraph (2), or

''(B) in the case of a highway motor vehicle with a taxable gross weight in excess of the weight for the highest rate specified in such table for such vehicle, the cents per mile rate specified in paragraph (3).

''(2) RATE SPECIFIED IN TABLE.—The table contained in this paragraph is as follows:

Taxable Gross Weight in Thousands of Pounds	Cents Per Mile								
	2-axle single unit	3-axle single unit	4-axle+ single unit	3-axle combination	4-axle combination	5-axle combination	6-axle combination	7-axle combination	8-axle+ combination
Over 25 to 30	0.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Over 30 to 35	1.00	0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Over 35 to 40	3.00	0.50	0.00	0.50	0.00	0.00	0.00	0.00	0.00
Over 40 to 45	5.00	1.50	0.50	1.00	0.00	0.00	0.00	0.00	0.00
Over 45 to 50	8.00	3.00	1.00	1.50	0.25	0.00	0.00	0.00	0.00
Over 50 to 55	12.00	6.00	2.00	2.50	0.50	0.25	0.00	0.00	0.00
Over 55 to 60	21.00	10.00	4.00	3.50	1.00	0.50	0.00	0.00	0.00
Over 60 to 65	30.00	17.00	7.00	5.00	2.50	1.00	0.25	0.00	0.00
Over 65 to 70	.....	25.00	10.00	7.50	4.00	2.00	0.50	0.00	0.00
Over 70 to 75	.....	33.00	14.00	11.00	5.50	3.00	1.25	0.00	0.00
Over 75 to 80	.....	41.00	19.00	17.00	7.50	3.75	2.00	0.00	0.00
Over 80 to 85	.....	50.00	24.00	25.00	13.00	7.00	4.00	0.50	0.00
Over 85 to 90	.....	.....	30.00	.....	19.00	11.00	6.00	1.00	0.00
Over 90 to 95	.....	.....	36.00	.....	25.00	15.00	8.50	1.50	0.25
Over 95 to 100	.....	.....	42.00	.....	.....	20.00	11.00	2.00	0.50
Over 100 to 105	.....	.....	50.00	.....	.....	25.00	14.00	3.50	1.00
Over 105 to 110	.....	.....	.....	.....	.....	30.00	17.00	5.00	2.00
Over 110 to 115	.....	.....	.....	.....	.....	35.00	20.00	7.00	3.00
Over 115 to 120	.....	.....	.....	.....	.....	.....	23.00	9.00	4.00
Over 120 to 125	.....	.....	.....	.....	.....	.....	26.00	11.00	6.00
Over 125 to 130	.....	.....	.....	.....	.....	.....	29.00	13.00	8.00
Over 130 to 135	.....	.....	.....	.....	.....	.....	32.00	15.00	10.00
Over 135 to 140	.....	.....	.....	.....	.....	.....	35.00	17.00	12.00
Over 140 to 145	.....	.....	.....	.....	.....	.....	.....	19.00	14.00
Over 145 to 150	.....	.....	.....	.....	.....	.....	.....	21.00	16.00

''(3) RATE SPECIFIED IN PARAGRAPH.—The cents per mile rate specified in this paragraph is as follows:

''(A) In the case of any single unit highway motor vehicle with 2 or more axles or any combination highway motor vehicle with 3 or 4 axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 10 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(B) In the case of any combination highway motor vehicle with 5 or 6 axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 5 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(C) In the case of any combination highway motor vehicle with 7 or more axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 2 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(b) DETERMINATION OF NUMBER OF AXLES.—For purposes of this section—

''(1) IN GENERAL.—The total number of axles with respect to any highway motor vehicle shall be determined without regard to any variable load suspension axle, except if such axle meets the requirements of paragraph (2).

''(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are as follows:

''(A) All controls with respect to the variable load suspension axle are located outside of and inaccessible from the driver's compartment of the highway motor vehicle.

''(B) The gross axle weight rating of all such axles with respect to the highway motor vehicle shall conform to the greater of—

''(i) the expected loading of the suspension of such vehicle, or

''(ii) 9,000 pounds.

''(3) VARIABLE LOAD SUSPENSION AXLE DEFINED.—The term 'variable load suspension axle' means an axle upon which a load may be varied voluntarily while the highway motor vehicle is enroute, whether by air, hydraulic, mechanical, or any combination of such means.

''(4) TERMINATION OF EXCEPTION.—The exception under paragraph (1) shall not apply after June 30, 2004.

''(c) DETERMINATION OF MILES.—

''(1) USE OF CERTAIN TOLL FACILITIES EXCLUDED.—For purposes of this section, the number of miles any highway motor vehicle is used shall be determined without regard to the miles involved in the use of a facility described in paragraph (2).

''(2) TOLL FACILITY.—A facility is described in this paragraph if such facility is a highway, bridge, or tunnel, the use of which is subject to a toll.

''(d) BY WHOM PAID.—The tax imposed by this section shall be paid by the person in whose name the highway motor vehicle is, or is required to be, registered under the law of the State or contiguous foreign country in which such vehicle is, or is required to be, registered, or, in case the highway motor vehicle is owned by the United States, by the agency or instrumentality of the United States operating such vehicle.

''(e) TIME FOR PAYING TAX.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations.

''(f) PERIOD TAX IN EFFECT.—The tax imposed by this section shall apply only to use before October 1, 2005.

"SEC. 4482. DEFINITIONS.

''(a) HIGHWAY MOTOR VEHICLE.—For purposes of this subchapter, the term 'highway motor vehicle' means any motor vehicle which is a highway vehicle.

''(b) TAXABLE GROSS WEIGHT.—For purposes of this subchapter—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'taxable gross weight' means, when used with respect to any highway motor vehicle, the maximum weight at which the highway motor vehicle is legally authorized to operate under the laws of the State in which it is registered.

''(2) SPECIAL PERMITS.—If a State allows a highway motor vehicle to be operated for any period at a maximum weight which is greater than the weight determined under paragraph (1), its taxable gross weight for such period shall be such greater weight.

''(c) OTHER DEFINITIONS AND SPECIAL RULE.—For purposes of this subchapter—

''(1) STATE.—The term 'State' means a State and the District of Columbia.

''(2) USE.—The term 'use' means use in the United States on the public highways.

"SEC. 4483. EXEMPTIONS.

''(a) STATE AND LOCAL GOVERNMENT EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4481 on the use of any highway motor vehicle by any State or any political subdivision of a State.

''(b) EXEMPTION FOR UNITED STATES.—The Secretary may authorize exemption from the tax imposed by section 4481 as to the use by the United States of any particular highway motor vehicle, or class of highway motor vehicles, if the Secretary determines that the imposition of such tax with respect to such use will cause substantial burden or expense which can be avoided by granting tax exemption and that full benefit of such exemption, if granted, will accrue to the United States.

''(c) CERTAIN TRANSIT-TYPE BUSES.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4481 on the use of any bus which is of the transit type (rather than of the intercity type) by a person who, for the last 3 months of the preceding year (or for such other period as the Secretary may by regulations prescribe for

purposes of this subsection), met the 60-percent passenger fare revenue test set forth in section 6421(b)(2) (as in effect on the day before the day of the enactment of the Energy Tax Act of 1978) as applied to the period prescribed for the purposes of this subsection.

''(d) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, 2005.

''SEC. 4484. CROSS REFERENCES.

''(1) For penalties and administrative provisions applicable to this subchapter, see subtitle F.

''(2) For exemption for uses by Indian tribal governments (or their subdivisions), see section 7871.''

(b) ADMINISTRATION OF TAX.—To the maximum extent possible, the Secretary of the Treasury shall administer the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as added by this section)—

(1) in cooperation with the States and in coordination with State administrative and reporting mechanisms, and

(2) through the use of the International Registration Plan and the International Fuel Tax Agreement.

SEC. ___5. COOPERATIVE TAX EVASION EFFORTS.

The Secretary of Transportation is authorized to use funds authorized for expenditure under section 143 of title 23, United States Code, and administrative funds deducted under 104(a) of such title 23, to develop automated data processing tools and other tools or processes to reduce evasion of the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as added by section ___4(a)). These funds may be allocated to the Internal Revenue Service, States, or other entities.

SEC. ___6. STUDY.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall conduct a study of—

(1) the tax equity of the various Federal taxes deposited into the Highway Trust Fund,

(2) any modifications to the tax rates specified in section 4481 of the Internal Revenue Code of 1986 (as added by section ___4(a)) to improve tax equity, and

(3) the administration and enforcement under subsection (e) of the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as so added).

(b) REPORT.—Not later than July 1, 2002, and July 1 of every fourth year thereafter, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a) together with—

(1) recommended tax rate schedules developed under subsection (a)(2), and

(2) such recommendations as the Secretary may deem advisable to make the administration and enforcement described in subsection (a)(3) more equitable.

SEC. 7. EFFECTIVE DATE AND FLOOR STOCK REFUNDS.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect on July 1, 2000.

(b) FLOOR STOCK REFUNDS.—

(1) IN GENERAL.—If—

(A) before July 1, 2000, tax has been imposed under section 4071 or 4081 of the Internal Revenue Code of 1986 on any article, and

(B) on such date such article is held by a dealer and has not been used and is intended for sale,

there shall be credited or refunded (without interest) to the person who paid such tax (hereafter in this subsection referred to as the ''taxpayer'') an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such article had the taxable event occurred on such date.

(2) TIME FOR FILING CLAIMS.—No credit or refund shall be allowed or made under this subsection unless—

(A) claim therefore is filed with the Secretary of the Treasury before January 1, 2001, and

(B) in any case where an article is held by a dealer (other than the taxpayer) on July 1, 2000—

(i) the dealer submits a request for refund or credit to the taxpayer before October 1, 2000, and

(ii) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(3) EXCEPTION FOR ARTICLES HELD IN RETAIL STOCKS.—No credit or refund shall be allowed under this subsection with respect to any article in retail stocks held at the place where intended to be sold at retail.

(4) DEFINITIONS.—For purposes of this subsection, the terms ''dealer'' and ''held by a dealer'' have the respective meanings given to such terms by section 6412 of such Code; except that the term ''dealer'' includes a producer.

(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 6412 of such Code shall apply for purposes of this subsection.

AMENDMENT NO. 741

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. NATIONAL STANDARD TO PROHIBIT OPERATION OF MOTOR VEHICLES BY INTOXICATED INDIVIDUALS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 165. National standard to prohibit operation of motor vehicles by intoxicated individuals

''(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2003.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2002, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 2003, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law providing that an individual who has an alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State is guilty of the offense of driving while intoxicated (or an equivalent offense that carries the greatest penalty under the law of the State for operating a motor vehicle after having consumed alcohol).

''(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

''(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2004.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2004, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2004.—No funds withheld under this section from apportionment to any State after September 30, 2004, shall be available for apportionment to the State.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Sums not obligated at the end of the period referred to in subparagraph (A) shall lapse.

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1)(A), the State does not meet the requirements of subsection (a)(3), the funds shall lapse.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''165. National standard to prohibit operation of motor vehicles by intoxicated individuals.''.

AMENDMENT NO. 742

At the appropriate place in title III, insert the following:

SEC. 3 . TRANSFER OF FUNCTION FROM FEDERAL HIGHWAY ADMINISTRATION.

Section 104(c) of title 49, United States Code, is amended by inserting ''and'' after the semicolon at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

SEC. 2. TRANSFER OF FUNCTION TO NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

Section 105(c) of title 49, United States Code, is amended by striking ''and'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

''(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of this title; and''.

SEC. 3. EFFECTIVE DATE.

The amendments made by sections 1 and 2 of this Act shall take effect on the 180th day following the date of enactment of this Act; except that the Secretary of Transportation may take such action as may be necessary to ensure the orderly transfer of the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code, and employees carrying out such duties and powers, from the Federal Highway Administration to the National Highway Traffic Safety Administration.

AMENDMENT NO. 743

At the appropriate place in title III, insert the following:

SEC. 3 . (a) IN GENERAL.—Section 845(a) of title 18, United States Code, is amended—

(1) in paragraph (4), by adding ''and'' at the end; and

(2) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5).

AMENDMENT NO. 744

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. FEDERAL LANDS HIGHWAYS PROGRAM.

Section 1101(8) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended—

(1) by striking ''each of fiscal years 1999 through 2003'' each place it appears and inserting ''fiscal year 1999''; and

(2) by adding at the end the following:

''(E) APPORTIONMENT TO ALL STATES.—For apportionment equally among the 50 States, for use for any activity for which funds may be made available from the Highway Trust Fund, $706,000,000 for each of fiscal years 2000 through 2003.''.

AMENDMENT NO. 745

On page 91, between lines 9 and 10, insert the following:

SEC. 342. (a) STUDY.—The Secretary of the Treasury shall undertake a study of the following issues:

(1) FACTORS IN STATE ALLOCATION FORMULAS.—

(A) IN GENERAL.—The various factors described in subparagraph (B) used in State allocation formulas included in current Federal assistance programs and possible alternative factors described in subparagraph (C), including an analysis of the strengths and weaknesses of such factors and formulas.

(B) CURRENT FACTORS.—Factors described in this subparagraph include—

(i) rolling 3-year average of State per capita income,

(ii) State total taxable resources,

(iii) per capita income squared,

(iv) poverty population, including poverty population 5–17 years old, poverty population under 21, families with incomes between 130 percent and 185 percent of poverty level, children below 130 percent of poverty level, households below 150 percent of poverty level, and rural population in poverty, and

(v) population receiving benefits under a State program funded under part A of title IV of the Social Security Act, adult population receiving such benefits, children 5–17 years old in families above poverty level receiving such benefits.

(C) ALTERNATIVE FACTORS.—Factors described in this subparagraph include—

(i) State gross domestic product,

(ii) the representative tax system,

(iii) the inclusion of user fees in factors based on tax collections,

(iv) poverty measures which reflect State cost-of-living, and

(v) a more accurate measure of State fiscal capacity than State per capita income.

(2) FISCAL CONDITION AND CAPACITY.—The long-term outlook for the fiscal condition and fiscal capacity of Federal, State, and local governments.

(3) IMPACT OF PAYMENTS DEFICIT.—The impact on a State's economy of running a persistent balance of payments deficit with the Federal Government.

(4) MEASURES LEADING TO MORE EQUITABLE RETURNS ON TAX DOLLARS.—Measures, including changes to allocation formulas, which would provide that each State's return on each Federal tax dollar, including direct payments to individuals, grants to State and local government, procurement, salaries and wages, and other Federal spending, is at least $0.95.

(5) IMPACT OF OTHER FACTORS.—The impacts of the cyclical nature of the economy and other factors, such as employment, on the expenditures, needs, and fiscal capacities of Federal, State, and local governments.

(6) RESPONSIVENESS OF DISTRIBUTION OF FEDERAL ASSISTANCE.—The responsiveness of the distribution of Federal assistance to—

(A) the cyclical nature of the economy and other factors identified under paragraph (5),

(B) the fiscal capacities of State and local governments,

(C) the need for services of State and local governments, and

(D) cost-of-living and cost-of-government differentials.

(7) ADMINISTRATION OF ALLOCATION FORMULAS.—The mathematical models, underlying data, and administration of Federal grant formulas, including the formulas examined under paragraph (1).

(b) STUDY PLAN.—The Secretary of the Treasury, in consultation with the Secretary of Commerce, the Comptroller General of the United States, and recognized organizations of elected officials of State and local governments, including regional organizations of such officials and officials of States that may receive substantially reduced funding under alternative methods of allocating Federal assistance, shall develop a plan for the completion of the study required by subsection (a). Such plan may provide for the participation of such individuals and organizations in the conduct of the study.

(c) REPORT OF STUDY.—Upon completion of the study required by subsection (a), the Secretary of the Treasury shall solicit the views of the persons and organizations with whom the Secretary was required to consult by subsection (b) and shall append such views to a final report to the President and Congress. Such report shall be submitted not later than June 30, 2000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated and is hereby appropriated $5,000,000 to carry out this section.

AMENDMENT NO. 746

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be apportioned equally among the States (other than the State referred to in that section) for use for any activity for which funds may be made available from the Highway Trust Fund:''.

AMENDMENT NO. 747

At the appropriate place in title III, insert the following:

SEC. 3___. EQUITABLE ALLOCATION OF FUNDING UNDER NATIONAL AERONAUTICS AND SPACE ADMINISTRATION PROGRAMS.

(a) DEFINITIONS.—In this section—

(1) ADMINISTRATOR—The term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration.

(2) AGENCY EXPENDITURE.—The term ''agency expenditure'' means any payment made by the Administrator to a State, a political subdivision of a State, or any other public or private person or entity in a State in the form of—

(A) a grant or other form of financial assistance;

(B) a payment under a contract; compensation of an employee or consultant; or

(C) any other form.

(3) EQUITABLE STATE ALLOCATION.—The term ''equitable State allocation'', with respect to a State and fiscal year, means the amount determined under subsection (c)(1) for the State and fiscal year.

(4) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) STATE DOLLAR CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State dollar contribution to the Federal Government'', with respect to a State and fiscal year, means the amount of revenues under the Internal Revenue Code of 1986 collected from, and the amount of user fees paid or any other payments made to the Federal Government by, all public and private persons or entities in the State during the fiscal year.

(6) STATE PERCENTAGE CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State percentage contribution to the Federal Government'', with respect to a State and fiscal year, means the proportion, expressed as a percentage, that—

(A) the State dollar contribution to the Federal Government by the State; bears to

(B) the aggregate of the State dollar contributions to the Federal Government by all of the States for the fiscal year.

(b) DETERMINATIONS.—Not later than 30 days after the close of each fiscal year—

(1) the Secretary of the Treasury shall report to the Administrator the amount of revenues under the Internal Revenue Code of 1986 collected in each State during the fiscal year; and

(2) the Administrator shall determine the State dollar contribution to the Federal Government and the State percentage contribution to the Federal Government by each State for the fiscal year.

(c) EQUITABLE STATE ALLOCATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator—

(A) shall make agency expenditures in each State in each fiscal year under each program administered by the Administrator, in an amount that is not less than the product obtained by multiplying—

(i) 90 percent of the amount that is equal to the aggregate amount of agency expenditures to be made under that program in all of the States for the fiscal year; by

(ii) the State percentage contribution to the Federal Government by the State for the fiscal year; or

(B) if making agency expenditures in a State in the amount determined under subparagraph (A) under any program is not practicable, shall make the requisite amount of funding available for use in the State under—

(i) other programs administered by the Administrator; or

(ii) transfer funds to the Secretary of Transportation to fund programs that apportion funds to States that are administered by the Secretary under title 23 or 49 of the United States Code.

(2) IMPLEMENTATION.—If, but for this section, the Administrator would make agency expenditures in a State in an amount that is less than the amount of the equitable State allocation, the Administrator shall reduce the amounts of agency expenditures to be made in States in which agency expenditures in more than the amounts of the equitable State allocations would be made, pro rata, by the amount necessary to enable the Administrator to make agency expenditures in the State in the full amount of its equitable State allocation.

AMENDMENT NO. 748

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. EQUITABLE ALLOCATION OF FUNDING UNDER BUREAU OF LAND MANAGEMENT PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) AGENCY EXPENDITURE.—The term ''agency expenditure'' means any payment made

by the Secretary to a State, a political subdivision of a State, or any other public or private person or entity in a State, in the form of—

(A) a share of revenues received from Federal land management activity;

(B) a grant or other form of financial assistance;

(C) a payment under a contract;

(D) compensation of an employee or consultant; or

(E) any other form.

(2) EQUITABLE STATE ALLOCATION.—The term ''equitable State allocation'', with respect to a State and fiscal year, means the amount determined under subsection (c)(1) for the State and fiscal year.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) STATE DOLLAR CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State dollar contribution to the Federal Government'', with respect to a State and fiscal year, means the amount of revenues under the Internal Revenue Code of 1986 collected from, and the amount of user fees paid or any other payments made to the Federal Government by, all public or private persons or entities in the State during the fiscal year.

(6) STATE PERCENTAGE CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State percentage contribution to the Federal Government'', with respect to a State and fiscal year, means the proportion, expressed as a percentage, that—

(A) the State dollar contribution to the Federal Government by the State; bears to

(B) the aggregate of the State dollar contributions to the Federal Government by all States for the fiscal year.

(b) DETERMINATIONS.—Not later than 30 days after the end of each fiscal year—

(1) the Secretary of the Treasury shall report to the Secretary the amount of revenues under the Internal Revenue Code of 1986 collected in each State during the fiscal year;

(2) the Secretary shall determine with respect to the Department of the Interior, and the head of each other Federal agency shall report to the Secretary with respect to the agency, the amount of user fees paid or any other payments made to the agency by all public or private persons or entities in each State during the fiscal year; and

(3) the Secretary shall determine the State dollar contribution to the Federal Government and the State percentage contribution to the Federal Government by each State for the fiscal year.

(c) EQUITABLE STATE ALLOCATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

(A) shall make agency expenditures in each State in each fiscal year under each program administered by the Secretary, acting through the Director of the Bureau of Land Management, in an amount that is not less than the product obtained by multiplying—

(i) 90 percent of the amount that is equal to the aggregate amount of agency expenditures to be made under that program in all States for the fiscal year; by

(ii) the State percentage contribution to the Federal Government by the State for the fiscal year; or

(B) if making agency expenditures in a State in the amount determined under subparagraph (A) under any program is not practicable, shall make the requisite amount of funding available for use in the State under other programs administered by the Secretary.

(2) IMPLEMENTATION.—If, but for this section, the Secretary would make agency expenditures in a State in an amount that is less than the amount of the equitable State allocation, the Secretary shall reduce the amounts of agency expenditures to be made in States in which agency expenditures in more than the amounts of the equitable State allocations would be made, pro rata, by the amount necessary to enable the Secretary to make agency expenditures in the State in the full amount of its equitable State allocation.

AMENDMENT NO. 749

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. EQUITABLE ALLOCATION OF FUNDING UNDER FOREST SERVICE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) AGENCY EXPENDITURE.—The term ''agency expenditure'' means any payment made by the Secretary to a State, a political subdivision of a State, or any other public or private person or entity in a State, in the form of—

(A) a share of revenues received from Federal land management activity;

(B) a grant or other form of financial assistance;

(C) a payment under a contract;

(D) compensation of an employee or consultant; or

(E) any other form.

(2) EQUITABLE STATE ALLOCATION.—The term ''equitable State allocation'', with respect to a State and fiscal year, means the amount determined under subsection (c)(1) for the State and fiscal year.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(4) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) STATE DOLLAR CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State dollar contribution to the Federal Government'', with respect to a State and fiscal year, means the amount of revenues under the Internal Revenue Code of 1986 collected from, and the amount of user fees paid or any other payments made to the Federal Government by, all public or private persons or entities in the State during the fiscal year.

(6) STATE PERCENTAGE CONTRIBUTION TO THE FEDERAL GOVERNMENT.—The term ''State percentage contribution to the Federal Government'', with respect to a State and fiscal year, means the proportion, expressed as a percentage, that—

(A) the State dollar contribution to the Federal Government by the State; bears to

(B) the aggregate of the State dollar contributions to the Federal Government by all States for the fiscal year.

(b) DETERMINATIONS.—Not later than 30 days after the end of each fiscal year—

(1) the Secretary of the Treasury shall report to the Secretary the amount of revenues under the Internal Revenue Code of 1986 collected in each State during the fiscal year;

(2) the Secretary shall determine with respect to the Department of Agriculture, and the head of each other Federal agency shall report to the Secretary with respect to the agency, the amount of user fees paid or any other payments made to the agency by all public or private persons or entities in each State during the fiscal year; and

(3) the Secretary shall determine the State dollar contribution to the Federal Government and the State percentage contribution to the Federal Government by each State for the fiscal year.

(c) EQUITABLE STATE ALLOCATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

(A) shall make agency expenditures in each State in each fiscal year under each program administered by the Secretary, acting through the Chief of the Forest Service, in an amount that is not less than the product obtained by multiplying—

(i) 90 percent of the amount that is equal to the aggregate amount of agency expenditures to be made under that program in all States for the fiscal year; by

(ii) the State percentage contribution to the Federal Government by the State for the fiscal year; or

(B) if making agency expenditures in a State in the amount determined under subparagraph (A) under any program is not practicable, shall make the requisite amount of funding available for use in the State under other programs administered by the Secretary.

(2) IMPLEMENTATION.—If, but for this section, the Secretary would make agency expenditures in a State in an amount that is less than the amount of the equitable State allocation, the Secretary shall reduce the amounts of agency expenditures to be made in States in which agency expenditures in more than the amounts of the equitable State allocations would be made, pro rata, by the amount necessary to enable the Secretary to make agency expenditures in the State in the full amount of its equitable State allocation.

AMENDMENT NO. 750

At the appropriate place in title III, insert the following:

SEC. 3___. EQUITABLE ALLOCATION OF AIRPORT IMPROVEMENT PROGRAM FUNDING.

(a) DEFINITIONS.—In this section:

(1) AIRPORT AND AIRWAY TRUST FUND.The term ''Airport and Airway Trust Fund'' means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) EQUITABLE STATE ALLOCATION.—The term ''equitable State allocation'', with respect to a State and fiscal year, means the amount determined under subsection (c)(1) for the State and fiscal year.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(4) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) STATE DOLLAR CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term ''State dollar contribution to the Airport and Airway Trust Fund'', with respect to a State and fiscal year, means the amount of funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(6) STATE PERCENTAGE CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term ''State percentage contribution to the Airport and Airway Trust Fund'', with respect to a State and fiscal year, means the proportion, expressed as a percentage, that the State dollar contribution to the Airport and Airway Trust Fund bears to the aggregate of the State dollar contributions to the Airport and Airway Trust Fund collected from all of the States for the fiscal year.

(b) DETERMINATIONS.—Not later than 30 days after the close of each fiscal year—

(1) the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the fiscal year that are transferred to the Airport and Airway Trust Fund; and

(2) the Secretary shall determine the State dollar contribution to the Airport and Airway Trust Fund and State percentage contribution to the Airport and Airway Trust Fund of each State for the fiscal year.

(c) EQUITABLE STATE ALLOCATION.—

(1) IN GENERAL.—

(A) ALLOCATION.—Notwithstanding any other provision of law, each State shall be entitled to receive under each program administered by the Secretary for which funds are authorized to be transferred from the Airport and Airway Trust Fund, an amount for a fiscal year that is not less than 90 percent of the amount that is equal to the aggregate amount to be paid under that program to all of the States for the fiscal year (adjusted for any administrative costs referred to in section 9502(d)(1)(C) of the Internal Revenue Code of 1986) multiplied by the State percentage contribution to the Airport and Airway Trust Fund for the fiscal year.

(B) RULE OF CONSTRUCTION.—Nothing in this section is intended to permit a use of amounts made available to a State under this section in a manner that does not meet the applicable requirements of part B of subtitle VII of title 49, United States Code.

(2) IMPLEMENTATION.—If, but for this section, a State would be entitled to receive less than the amount of its equitable State allocation under a program administered by the Secretary, the Secretary shall deduct from the amounts to be paid to States that would be entitled to receive more than the equitable State allocations for those States, pro rata, the amount necessary to enable the Secretary to pay the State the full amount of its equitable State allocation.

AMENDMENT NO. 751

On page 80, line 11 strike ''.'' and insert:

''*Provided further,* for any state to receive funding under this provision it must match the Federal funding made available under this provision with a commensurate amount of State funding: Provided further, notwithstanding any other provision of law, no funds made available under this provision shall be eligible for use on any title 23 programs.''

AMENDMENT NO. 752

At the appropriate place in title III, insert the following:

SEC. 3 . (a) IN GENERAL.—Section 127(a) of title 23, United States Code, is amended—

(1) by striking ''With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered to be a non-divisible load,''; and

(2) by striking ''The State of Louisiana may allow, by special permit'' and all that follows through the end of the subsection.

(b) Section 1212 of the Transportation Equity Act for the 21st Century (112 Stat. 194) is amended by striking subsection (d).

AMENDMENT NO. 756

On page 80, line 11 strike ''.'' and insert:

''*Provided further,* for any state to receive funding under this provision it must match the Federal funding made available under this provision with a commensurate amount of State funding: Provided further, notwithstanding any other provision of law, no funds made available under this provision shall be eligible for use on any title 23 programs.''

AMENDMENT NO. 754

At the appropriate place in title III, insert the following:

SEC. 3 . (a) IN GENERAL.—Section 127(a) of title 23, United States Code, is amended—

(1) by striking ''With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered to be a non-divisible load,''; and

(2) by striking ''The State of Louisiana may allow, by special permit'' and all that follows through the end of the subsection.

(b) Section 1212 of the Transportation Equity Act for the 21st Century (112 Stat. 194) is amended by striking subsection (d).

AMENDMENT NO. 755

On page 80, strike line 1 and all that follows through page 81, line 11.

AMENDMENT NO. 756

On page 2, line 6 strike ''$1,900,000'' and insert ''$5,000,000.''

AMENDMENT NO. 757

On page 10 line 5 insert the following: ''U.S. Coast Guard Air Facility (AIRFAC) Long Island''

For necessary expenses, not otherwise provided for, for the operation and maintenance of the AIRFAC Long Island, $2,900,000.

AMENDMENT NO. 758

Beginning on page 80, strike line 1 and all that follows through page 81, line 2 and insert:

''Section 321. Notwithstanding any provision of law, no state shall receive of the total budgetary resources made available by this Act to carry 49 U.S.C. 5307, 5309, 5310, and 5311, a percentage less than that state's percentage of the total annual ridership of programs funded by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311: *Provided further,* That the Secretary of Transportation will use ridership figures of the previous fiscal year in the determination of each state's ridership percentage.''

AMENDMENT NO. 759

On page 80, line 6 strike ''12.5 percent'' and insert ''50 percent.''

AMENDMENT NO. 760

On page 80, line 2 strike ''12.5 percent'' and insert ''75 percent.''

AMENDMENT NO. 761

At the appropriate place in title II, insert the following:

''REIMBURSEMENT FOR SALARIES AND EXPENSES.—The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 2000, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.''

AMENDMENT NO. 762

On page 2, line 9 strike ''$600,000.'' and insert ''1,500,000''

AMENDMENT NO. 763

On page 9, line 25 strike ''$12,450,000'' and insert ''$25,000,000''

AMENDMENT NO. 764

On page 19, line 22 strike ''$20,000,000'' and insert ''$100,000,000.''

AMENDMENT NO. 765

On page 69, line 9 strike ''100'' and insert ''107.''

AMENDMENT NO. 766

On page 4, line 4, strike ''$1,222,000'' and insert ''$2,500,000.''

AMENDMENT NO. 767

On page 4, line 10, strike ''$7,200,000'' and insert ''$12,500,000.''

AMENDMENT NO. 768

On page 4, line 7, strike ''$5,100,000'' and insert ''$12,500,000.''

AMENDMENT NO. 769

On page 5, line 25, strike ''$2,900,000, of which $2,635,000 shall remain available'' and insert ''$12,500,000, of which $11,300,000 shall remain available''.

AMENDMENT NO. 770

On page 17, line 7, strike ''.25 percent'' and insert ''7 percent''.

AMENDMENT NO. 771

On page 20, line 16, strike ''$6,000,000'' and all that follows through ''and'' on line 17.

AMENDMENT NO. 772

On page 25, line 1, strike ''$2,000,000'' and insert ''$12,500,000''.

AMENDMENT NO. 773

On page 29, line 13, strike ''$571,000,000'' and insert ''$650,000,000''.

AMENDMENT NO. 774

On page 82, line 23, strike ''210 miles'' and insert ''1,000 miles''.

AMENDMENT NO. 775

On page 34, line 2, following ''projects,'' insert: ''giving primary consideration to those projects located in states with the highest state expenditures on public transportation,''.

AMENDMENT NO. 776

On page 20, line 3, strike ''$31,000,000'' and insert ''35,000,000''.

AMENDMENT NO. 777

On page 67, line 19, strike ''$1,000,000'' and insert ''2,000,000''.

AMENDMENT NO. 778

On page 20, line 18, strike ''$5,000,000'' and insert ''$10,400,000''.

AMENDMENT NO. 779

Beginning on page 86, strike line 5 and all that follows through page 87, line 7.

AMENDMENT NO. 780

On page 63, line 13, strike ''$11,496,000'' and insert ''$12,500,000''.

AMENDMENT NO. 781

On page 3, line 5, strike ''$45,000'' and insert ''$60,000''.

AMENDMENT NO. 782

On page 84, line 11, strike ''12 per centum'' and insert ''50 per centum''.

AMENDMENT NO. 783

On page 83, line 19, strike ''80 percent'' and insert ''50 percent''.

AMENDMENT NO. 784

On page 15, line 25, strike ''$150,000,000'' and insert ''$173,000,000''.

AMENDMENT NO. 785

On page 19, line 16, strike ''$391,450,000'' and insert ''$641,450,000''.

AMENDMENT NO. 786

On page 55, line 12, strike ''.'' and insert the following in lieu thereof:

''Rochester Central Bus facility, New York; Long Beach Central Bus Facility, New York; Broome County Buses and Related Equipment, New York:''.

AMENDMENT NO. 787

Beginning on page 34, strike line 4 and all that follows through page 35, line 12.

AMENDMENT NO. 788

On page 38, strike lines 12 and 13.

AMENDMENT NO. 789

On page 38, strike lines 16 and 17.

AMENDMENT NO. 790

On page 39, strike lines 8 and 9.

AMENDMENT NO. 791

On page 41, strike lines 12 and 17.

AMENDMENT NO. 792

On page 54, strike lines 17 and 18.

AMENDMENT NO. 793

On page 56, strike lines 19 and 20.

AMENDMENT NO. 794

Beginning on page 57, strike lines 23 and all that follows through page 58, line 8.

AMENDMENT NO. 795

On page 58, strike lines 13 and 19.

AMENDMENT NO. 796

Beginning on page 59, strike line 5 and all that follows through page 60, line 4.

AMENDMENT NO. 797

On page 78, strike lines 16 and 23.

AMENDMENT NO. 798

On page 83, line 17, strike ''$950,000,'' and insert ''$1,500,000,''.

AMENDMENT NO. 799

Beginning on page 78, strike line 24 and all that follows through page 79, line 4.

AMENDMENT NO. 800

Beginning on page 84, strike line 15 and all that follows through page 85, line 11.

AMENDMENT NO. 801

On page 66, line 22, strike ''$4,500,000'' and insert ''$5,000,000''.

AMENDMENT NO. 802

On page 41, strike line 24.

AMENDMENT NO. 803

On page 42, strike lines 3 through 5.

AMENDMENT NO. 804

On page 42, strike lines 23 and 24.

AMENDMENT NO. 805

On page 43, strike lines 3 and 4.

AMENDMENT NO. 806

On page 43, strike lines 5 and 6.

AMENDMENT NO. 807

On page 43, strike lines 7 and 8.

AMENDMENT NO. 808

On page 43, strike lines 18 and 19.

AMENDMENT NO. 809

On page 44, strike lines 5 and 6.

AMENDMENT NO. 810

On page 53, strike line 1.

AMENDMENT NO. 811

On page 55, strike line 12.

AMENDMENT NO. 812

On page 55, strike lines 10 and 11.

AMENDMENT NO. 813

On page 55, strike lines 8 and 9.

AMENDMENT NO. 814

On page 55, strike line 7.

AMENDMENT NO. 815

On page 55, strike lines 5 and 6.

AMENDMENT NO. 816

On page 55, strike lines 3 and 4.

AMENDMENT NO. 817

On page 55, strike lines 1 and 2.

AMENDMENT NO. 818

On page 54, strike lines 17 and 18.

AMENDMENT NO. 819

On page 54, strike lines 15 and 16.

AMENDMENT NO. 820

On page 54, strike lines 13 and 14.

AMENDMENT NO. 821

On page 54, strike line 12.

AMENDMENT NO. 822

On page 54, strike line 11.

AMENDMENT NO. 823

On page 54, strike lines 9 and 10.

AMENDMENT NO. 824

On page 54, strike lines 7 and 8.

AMENDMENT NO. 825

On page 54, strike lines 5 and 6.

AMENDMENT NO. 826

On page 54, strike lines 3 and 4.

AMENDMENT NO. 827

On page 54, strike line 1.

AMENDMENT NO. 828

On page 53, strike lines 24 and 25.

AMENDMENT NO. 829

On page 53, strike lines 22 and 23.

AMENDMENT NO. 830

On page 53, strike line 21.

AMENDMENT NO. 831

On page 53, strike lines 19 and 20.

AMENDMENT NO. 832

On page 53, strike line 18.

AMENDMENT NO. 833

On page 53, strike lines 16 and 17.

AMENDMENT NO. 834

On page 53, strike lines 14 and 15.

AMENDMENT NO. 835

On page 53, strike lines 12 and 13.

AMENDMENT NO. 836

On page 53, strike lines 10 and 11.

AMENDMENT NO. 837

On page 53, strike lines 8 and 9.

AMENDMENT NO. 838

On page 53, strike lines 6 and 7.

AMENDMENT NO. 839

On page 53, strike lines 3 and 4.

AMENDMENT NO. 840

On page 53, strike line 2.

AMENDMENT NO. 841

On page 52, strike line 25.

AMENDMENT NO. 842

On page 52, strike line 24.

AMENDMENT NO. 843

On page 52, strike lines 23.

AMENDMENT NO. 844

On page 52, strike lines 21 and 22.

AMENDMENT NO. 845

On page 52, strike lines 19 and 20.

AMENDMENT NO. 846

On page 52, strike lines 17 and 18.

AMENDMENT NO. 847

On page 52, strike lines 15 and 16.

AMENDMENT NO. 848

On page 52, strike line 14.

AMENDMENT NO. 849

On page 52, strike lines 12 and 13.

AMENDMENT NO. 850

On page 52, strike lines 10 and 11.

AMENDMENT NO. 851

On page 52, strike lines 8 and 9.

AMENDMENT NO. 852

On page 52, strike lines 4 and 5.

AMENDMENT NO. 853

On page 52, strike line 3.

AMENDMENT NO. 854

On page 52, strike lines 1 and 2.

AMENDMENT NO. 855

On page 51, strike lines 23 and 24.

AMENDMENT NO. 856

On page 51, strike lines 21 and 22.

AMENDMENT NO. 857

On page 51, strike lines 17 and 18.

AMENDMENT NO. 858

On page 51, strike line 16.

AMENDMENT NO. 859

On page 51, strike line 8.

AMENDMENT NO. 860

On page 51, strike lines 6 and 7.

FEINSTEIN AMENDMENTS NOS. 861–904

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted 44 amendments intended to be proposed by her to the bill, S. 11433, supra; as follows:

AMENDMENT NO. 861

On page 80, line 2, strike ''12.5 percent'' and insert ''16 percent''.

AMENDMENT NO. 862

On page 80, line 4, strike ''5309''.

AMENDMENT NO. 863

On page 80, strike lines 1 through 11 and redesignate the following sections accordingly.

AMENDMENT NO. 864

On page 80, line 2, strike ''12.5'' and insert ''15.8''.

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 5336 of title 49, United States Code, is amended—

(1) in subsection (b)(2), by striking ''33.29 percent'' and inserting ''53.29 percent'';

(2) in subsection (c), by striking ''66.71 percent'' and inserting ''46.71 percent'';

(3) in subsection (c)(1), by striking ''73.39 percent'' and inserting ''83.39 percent''; and

(4) in subsection (c)(2), by striking ''26.61 percent'' and inserting ''16.61 percent''.

AMENDMENT NO. 865

On page 80, line 11, insert after ''apportionments'' the following: ''*Provided further,* That the limitation set forth in this section shall not apply to a State if the Secretary of Transportation determines that such a State has transit capital and operating funding needs that are in excess of the funding that would be provided pursuant to the 12.5 percent limitation''.

AMENDMENT NO. 866

On page 80, line 11, insert after ''apportionments'' the following: '': *Provided further,* That the limitation set forth in this section shall not apply to a State if the total annual transit trips in such State is equal to 12.5 percent or more of the total annual transit trips in all States''.

AMENDMENT NO. 867

On page 80, line 11, insert after ''apportionments'' the following: '': *Provided further,* That the limitation set forth in this section shall not apply to a State if the total net project cost of all new fixed guideway projects in final design or construction in such State is equal to 12.5 percent or more of the total net project cost of all new fixed guideway projects in final design or construction in all States''.

AMENDMENT NO. 868

On page 80, line 11, insert after ''apportionments'' the following: '': *Provided further,* That the limitation set forth in this section shall not apply to any State in which public transportation authority has entered into a Consent Decree that arises out of litigation commenced in Federal Court under title VI of the Civil Rights Act of 1964 and that results in the increased expenditure of public funds for bus services''.

AMENDMENT NO. 869

On page 80, strike lines 1 through 11 and insert the following:

SEC 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total annual transit directional route miles in such State bears to the total annual transit directional route miles in all States: *Provided,* That for purposes of this calculation the Federal Transit Administration shall include the appropriate state distribution of the funding provided to urbanized areas: *Provided further,* That the amounts recovered from such reductions shall be distributed equally: *Provided further,* That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 870

On page 80, strike lines 1 through 11 and insert the following:

SEC 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total net project cost of all fixed guideway projects in final design or construction in such State bears to the total net project cost of such projects in all States: *Provided,* That for purposes of this calculation the Federal Transit Administration shall include the appropriate state distribution of the funding provided to urbanized areas: *Provided further,* That the amounts recovered from such reductions shall be distributed equally: *Provided further,* That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 871

On page 80, strike lines 1 through 11 and insert the following:

SEC 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total annual transit trips in such State bears to the total annual transit trips in all States: *Provided,* That for purposes of this calculation the Federal Transit Administration shall include the appropriate state distribution of the funding provided to urbanized areas: *Provided further,* That the amounts recovered from such reductions shall be distributed equally: *Provided further,* That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 872

On page 34, strike line 7.
On page 35, strike lines 15 and 16.
On page 35, strike line 25.
On page 36, strike line 1.
On page 38, strike lines 16 and 17.
On page 39, strike lines 8 and 9.
On page 39, strike line 24 and 25.
On page 41, strike lines 13 through 17.
On page 46, strike lines 1 and 2.
On page 46, strike lines 7 through 10.
On page 54, strike line 2.
On page 59, strike line 22.

AMENDMENT NO. 873

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(1)(A) of title 23, United States Code, relating to the National Highway System Program, is amended by striking ''25 percent'' in clause (i) and inserting ''10 percent'' and by striking ''35 percent'' in clause (ii) and inserting ''50 percent''.

AMENDMENT NO. 874

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(3)(A) of title 23, United States Code, relating to the Surface Transportation Program, is amended by striking ''25 percent'' in clause (i) and inserting ''10 percent'' and by striking ''40 percent'' in clause (ii) and inserting ''55 percent''.

AMENDMENT NO. 875

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(4) of title 23, United States Code, relating to the Interstate Maintenance Program, is amended by striking ''33⅓ percent'' in subparagraph (A) and inserting ''23⅓ percent'' and by striking ''33⅓ percent'' in subparagraph (B) and inserting ''43⅓ percent''.

AMENDMENT NO. 876

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(3)(A) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended—

(1) in subparagraph (B)(i), by striking ''0.8'' and inserting ''0.6'';

(2) in subparagraph (B)(vi), by striking ''1.4'' and inserting ''1.6'';

(3) in subparagraph (C)(i), by striking ''1.2'' and inserting ''1.4''; and

(4) in subparagraph (D), by striking ''½ of 1 percent'' and inserting ''¼ of 1 percent''.

AMENDMENT NO. 877

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(e) of title 23, United States Code, relating to the Highway Bridge Program, is amended by adding the end of thereof the following new sentence: ''Notwithstanding any other provision of this subsection, the ratio which the amount of funding apportioned to a State under this section in any fiscal year bears the amount of such funding apportioned to all States in such year shall not exceed 110 percent of the ratio which the population in such State bears to the population in all States.

AMENDMENT NO. 878

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 114(e) of title 23, United States Code, is amended by striking ''more than 10 per centum or less than 0.25 per centum'' and inserting ''more than 15 per centum or less than 0.10 per centum''.

AMENDMENT NO. 879

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, amounts made available under this Act for grants and loans for capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities under section 5309 of title 49, United States Code, shall be allocated among States on a pro rata basis, based on the mass transit ridership of each State, as compared to the total mass transit ridership of the United States, as determined by the Federal Transit Administration.

AMENDMENT NO. 880

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, amounts made available under this Act for grants and loans for capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities under section 5309 of title 49, United States Code, shall be allocated among States on a pro rata basis, based on the population of each State, as compared to the total population of the United States, based on the most recent population statistics compiled by the Bureau of the Census of the Department of Commerce.

AMENDMENT NO. 881

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, amounts made available under this Act for grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems under section 5309 of title 49, United States Code, shall be allocated among States on a pro rata basis, based on the population of each State, as compared to the total population of the United States, based on the most recent population statistics compiled by the Bureau of the Census of the Department of Commerce.

AMENDMENT NO. 882

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. OBLIGATION OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM FUNDS.

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(5) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Administrator of the Environmental Protection Agency, for the purpose of carrying out any activity that the Administrator is authorized to carry out under any law.

AMENDMENT NO. 883

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) PERISHABLE AGRICULTURAL COMMODITY.—The term ''perishable agricultural commodity'' has the meaning given the term in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(3) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the quantity of perishable agricultural commodities produced in the State during the most recent year for which data are available (as determined by the Secretary of Agriculture); bears to

(2) the quantity of perishable agricultural commodities produced in all States during that year (as determined by the Secretary of Agriculture).

AMENDMENT NO. 884

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. MAXIMUM HIGHWAY FUNDS APPORTIONMENT TO EACH STATE.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) DETERMINATION OF RATIO.—For each State, the Secretary of Transportation shall determine the ratio that—

(1) the population of the State (as determined using the latest available annual estimates prepared by the Secretary of Commerce); bears to

(2) the population of all States (as determined using the latest available annual estimates prepared by the Secretary of Commerce).

(c) MAXIMUM APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, a State shall not receive an amount of highway funds that is greater than the State's percentage of the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

(d) REDISTRIBUTION OF HIGHWAY FUNDS.—The amount of highway funds made available by application of subsection (c) shall be redistributed among the States in the ratio determined under subsection (b).

AMENDMENT NO. 885

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. MAXIMUM HIGHWAY FUNDS APPORTIONMENT TO EACH STATE.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) DETERMINATION OF RATIO.—For each State, the Secretary of Transportation shall determine the ratio that—

(1) the population of the State (as determined using the latest available annual estimates prepared by the Secretary of Commerce); bears to

(2) the population of all States (as determined using the latest available annual estimates prepared by the Secretary of Commerce).

(c) MAXIMUM APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, a State shall not receive an amount of highway funds that is greater than the amount obtained by multiplying—

(1) the amount that is equal to 120 percent of the amount of highway funds made available to all States; by

(2) the ratio determined under subsection (b) for the State.

(d) REDISTRIBUTION OF HIGHWAY FUNDS.—The amount of highway funds made available by application of subsection (c) shall be redistributed among the States in the ratio determined under subsection (b).

AMENDMENT NO. 886

On page 80, line 11, insert after ''apportionments'' the following: ''*: Provided further,* That the limitation set forth in this section shall not apply unless authorized by the appropriate authorization committees.

AMENDMENT NO. 887

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the percentage of transit riders in each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the national totals of transit riders (as determined by the Secretary of Transportation).

AMENDMENT NO. 888

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the amount of coastline of each state-excluding Alaska and Hawaii during the most recent year for which data are available (as determined by the Secretary of Commerce); bears to

(2) the amount of coastline of all States—excluding Alaska and Hawaii—during that year (as determined by the Secretary of Commerce).

AMENDMENT NO. 889

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the number of registered vehicles in each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the number of registered vehicles in all States during that year (as determined by the Secretary of Transportation).

AMENDMENT NO. 890

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the number of licensed drivers in each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the number of licensed drivers in all States during that year (as determined by the Secretary of Transportation).

AMENDMENT NO. 891

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the amount of combined tons of imports and exports that arrive and depart the United States from each state during the most recent year for which data are available (as determined by the Secretary of Commerce); bears to

(2) the amount of combined tons of imports and exports that arrive and depart the United States from all States during that year (as determined by the Secretary of Commerce).

AMENDMENT NO. 892

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the number of vehicle occupants who comply with passenger restraint laws in each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the number of vehicle occupants who comply with passenger restraint laws in all States during that year (as determined by the Secretary of Transportation).

AMENDMENT NO. 893

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . APPORTIONMENT OF HIGHWAY FUNDS.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY FUNDS.—The term ''highway funds'' means the total apportionments made available for fiscal year 2000 under sections 104(b), 104(f), 105, 117, 144, and 206 of title 23, United States Code, and section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

(2) STATE.—The term ''State'' means any of the 50 States and the District of Columbia.

(b) APPORTIONMENT.—Notwithstanding any other provision of this Act or any other law, the highway funds shall be apportioned among the States in the ratio that—

(1) the amount, as a percentage, spent of its own money on highway spending by each state during the most recent year for which data are available (as determined by the Secretary of Transportation); bears to

(2) the amount, as a percentage, spent of its own money on highway spending by all States during that year (as determined by the Secretary of Transportation).

AMENDMENT NO. 894

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . OBLIGATION OF SURFACE TRANSPORTATION PROGRAM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(4) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 895

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . OBLIGATION OF NATIONAL HIGHWAY SYSTEM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 896

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . OBLIGATION OF BRIDGE PROGRAM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 897

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . OBLIGATION OF INTERSTATE MAINTENANCE PROGRAM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 898

On page 91, between lines 9 and 10, insert the following:

SEC. 3 . OBLIGATION OF RECREATIONAL TRAILS PROGRAM

Notwithstanding any other provision of this Act or any other law, for fiscal year 2000, funds described in section 1101(a)(7) of the Transportation Equity Act for the 21st Century (112 Stat. 112) shall be available for obligation, at the discretion of the Secretary of Transportation, for the purpose of carrying out any activity that the Secretary is authorized to carry out under any law.

AMENDMENT NO. 899

At the appropriate place in title III, insert the following:

SEC. 3____. Notwithstanding any other provision of law, including section 47114 of title 49, United States Code (relating to apportionments to States), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for airport planning and airport development under section 47104 of title 49, United States Code, pursuant to section 48103 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total population of the State bears to the total population of the United States.

AMENDMENT NO. 900

At the appropriate place in title III, insert the following:

SEC. 3____. Notwithstanding any other provision of law, including section 47114 of title 49, United States Code (relating to apportionments to States), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for airport planning and airport development under section 47104 of title 49, United States Code, pursuant to section 48103 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total boardings of passengers of air transportation for the preceding fiscal year (as that term is defined in section 40102 of that title) of the State bears to the total number of such boardings in the United States for that fiscal year.

AMENDMENT NO. 901

At the appropriate place in title III, insert the following:

SEC. 3____. Notwithstanding any other provision of law, including section 47114 of title 49, United States Code (relating to apportionments to States), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for airport planning and airport development under section 47104 of title 49, United States Code, pursuant to section 48103 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total takeoffs and landings of passengers of air transportation for the preceding fiscal year (as that term is defined in section 40102 of that title) of the State bears to the total number of such takeoffs and landings in the United States for that fiscal year.

AMENDMENT NO. 902

At the appropriate place in title III, insert the following:

SEC. 3____. Notwithstanding any other provision of law, including section 44502 of title 49, United States Code (relating to general facilities and personnel authority), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for general facilities under section 44502 of title 49, United States Code, pursuant to section 48101 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total population of the State bears to the total population of the United States.

AMENDMENT NO. 903

At the appropriate place in title III, insert the following:

SEC. 3____. Notwithstanding any other provision of law, including section 44502 of title 49, United States Code (relating to general facilities and personnel authority), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for general facilities under section 44502 of title 49, United States Code, pursuant to section 48101 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total boardings of passengers of air transportation for the preceding fiscal year (as that term is defined in section 40102 of that title) of the State bears to the total

number of such boardings in the United States for that fiscal year.

AMENDMENT NO. 904

At the appropriate place in title III, insert the following:

SEC. 3____. Notwithstanding any other provision of law, including section 44502 of title 49, United States Code (relating to general facilities and personnel authority), beginning with fiscal year 2000, the Secretary of Transportation shall allocate to each State, from the funds authorized to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 for general facilities under section 44502 of title 49, United States Code, pursuant to section 48101 of that title, an amount that bears the same ratio to the total amount available for apportionment as the total takeoffs and landings of passengers of air transportation for the preceding fiscal year (as that term is defined in section 40102 of that title) of the State bears to the total number of such takeoffs and landings in the United States for that fiscal year.

BOXER AMENDMENTS NOS. 905–951

(Ordered to lie on the table.)

Mrs. BOXER submitted amendments intended to be proposed by her to the bill, S. 1143, supra as follows:

AMENDMENT NO. 905

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be apportioned equally among the States (other than the State referred to in that section) and the District of Columbia for use for any activity for which funds may be made available under section 5307, 5309, 5310, or 5311 of title 49, United States Code:''.

AMENDMENT NO. 906

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be apportioned equally among the States of California and New York for use for any activity for which funds may be made available under section 5307, 5309, 5310, or 5311 of title 49, United States Code:''.

AMENDMENT NO. 907

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be distributed in the manner described in section 110 of title 23, United States Code (as added by section 1105(a) of the Transportation Equity Act for the 21st Century (112 Stat. 130)):''.

AMENDMENT NO. 908

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be made available to carry out section 5308 of title 49, United States Code:''.

AMENDMENT NO. 909

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be made available to carry out section 5506 of title 49, United States Code:''.

AMENDMENT NO. 910

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be made available to carry out section 5309 of title 49, United States Code:''.

AMENDMENT NO. 911

On page 30, line 13, insert before the period the following: '': *Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be available for these purposes''.

AMENDMENT NO. 912

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 352 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–476), that is unobligated as of the date of enactment of this Act shall be made available to carry out section 5506 of title 49, United States Code:''.

AMENDMENT NO. 913

On page 91, between lines 9 and 10, insert the following:

SEC. 3____. REPEAL OF CERTAIN AUTHORITY.

Section 365 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–477), is repealed.

AMENDMENT NO. 914

On page 33, line 22, insert before the colon the following: '': *Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by line items 5 through 16 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–454), that is unobligated as of the date of enactment of this Act shall be distributed equally between the States of California and New York''.

AMENDMENT NO. 915

On page 69, strike lines 8 through 13.

AMENDMENT NO. 916

On page 20, at the beginning of line 20, insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the portion of the funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544), that is unobligated as of the date of enactment of this Act shall be apportioned equally among the States and the District of Columbia for use for any activity for which funds may be made available under section 5307, 5309, 5310, or 5311 of title 49, United States Code:''.

AMENDMENT NO. 917

On page 80, strike lines 1 through 11.

AMENDMENT NO. 918

On page 13, lines 12 through 14, strike ''*Provided further,* That none of the funds in this Act shall be available for new applicants for the second career training program:''.

AMENDMENT NO. 919

On page 21, at the beginning of line 1, insert ''*Provided further,* That, notwithstanding the preceding proviso, a State shall not receive funds made available under the preceding proviso if the State receives a distribution of amounts recovered from reductions under section 321''.

AMENDMENT NO. 920

On page 91, between lines 9 and 10, insert the following:

SEC. 3____. CONDITION ON RECEIPT OF TRANSPORTATION FUNDS.

Notwithstanding any other provision of law, a State shall not receive funds made available by this Act if the State received an exemption from the application of Federal environmental laws to a highway extension linked to a private toll bridge project under section 365 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–477).

AMENDMENT NO. 921

On page 80, line 9, insert before the colon the following: '': *Provided further,* That no State may receive any funding increase by operation of this section if the State has any funds made available by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544) that are unobligated as of the date of enactment of this Act''.

AMENDMENT NO. 922

On page 80, line 11, insert before the period the following: '': *Provided further,* That, notwithstanding any other provision of law, if any such funding reduction is made with respect to the State of California, that State shall receive an amount equal to the amount made available to that State by section 112 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–544) that is unobligated as of the date of enactment of this Act''.

AMENDMENT NO. 923

On page 62, line 20, insert before the period the following: '': *Provided further,* That no State shall receive any funds under this heading if the State receives a funding increase by operation of section 321 of this Act''.

AMENDMENT NO. 924

On page 80, line 4, insert before the colon the following: '', unless the State also has more than 12.5 percent of the passenger miles reported by the Federal Transit Administration''.

AMENDMENT NO. 925

On page 17, line 2, before the period, insert the following: '': *Provided further,* That the amount that a State would otherwise receive under this heading shall be reduced by any amount that the State receives in accordance with section 321 of this Act to carry out sections 5307, 5309, 5310, and 5311 of title 49, United States Code''.

AMENDMENT NO. 926

On page 80, line 2, strike ''12.5 percent'' and insert ''16 percent''.

AMENDMENT NO. 927

On page 80, line 4, strike ''5309''.

AMENDMENT NO. 928

On page 80, line 2, strike ''12.5'' and insert ''15.8''.

On page 91, after line 9, insert the following new Section:

SEC. 342. Section 5336 of title 49, United States Code, is amended—

(1) in subsection (b)(2), by striking ''33.29 percent'' and inserting ''53.29 percent'';

(2) in subsection (c), by striking ''66.71 percent'' and inserting ''46.71 percent'';

(3) in subsection (c)(1), by striking ''73.39 percent'' and inserting ''83.39 percent''; and

(4) in subsection (c)(2), by striking ''26.61 percent'' and inserting ''16.61 percent''.

AMENDMENT NO. 929

On page 80, line 11, insert after ''apportionments'' the following:

'': *Provided further,* That the limitation set forth in this section shall not apply to a State if the Secretary of Transportation determines that such State has transit capital and operating funding needs that are in excess of the funding that would be provided pursuant to the 12.5 percent limitation''.

AMENDMENT NO. 930

On page 80, line 11, insert after ''apportionments'' the following:

'': *Provided further,* That the limitation set forth in this section shall not apply to a State if the total annual trips in such State is equal to 12.5 percent or more of the total annual transit trips in all States''.

AMENDMENT NO. 931

On page 80, line 11, insert after ''apportionments'' the following:

'': *Provided further,* That the limitation set forth in this section shall not apply to any State in which a public transportation authority has entered into a Consent Decree that arises out of litigation commenced in Federal court under title VI of the Civil Rights Act of 1964 and that results in the increased expenditure of public funds for bus services''.

AMENDMENT NO. 932

Page 80, line 11, insert after ''apportionments'' the following:

'': *Provided further,* That the limitation set forth in this section shall not apply to a State if the total net project cost of all new fixed guideway projects in final design or construction in such State is equal to 12.5 percent or more of the total net project cost of all new fixed guideway projects in final design or construction in all States''.

AMENDMENT NO. 933

Page 80, strike lines 1 through 11 and insert the following:

SEC. 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total annual transit directional route miles in such State bears to the total annual transit directional route miles in all States: *Provided,* That for purposes of this calculation the Federal Transit Administration shall include the appropriate state distribution of the funding provided to urbanized areas: *Provided further,* That the amounts recovered from such reductions shall be distributed equally: *Provided further,* That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 934

Page 80, strike lines 1 through 11 and insert the following:

SEC. 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total net project cost of all fixed guideway projects in final design or construction in such State bears to the total net project cost of such projects in all States: *Provided,* That for purposes of this calculation the Federal Transit Administration shall include the appropriate State distribution of the funding provided to urbanized areas: *Provided further,* That the amounts recovered from such reductions shall be distributed equally: *Provided further,* That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 935

Page 80, strike lines 1 through 11 and insert the following:

SEC. 321. Notwithstanding any other provision of law, no State's share of the total budget resources made available by this Act to carry out 49 U.S.C. 5307, 5309, 5310, and 5311 shall exceed the ratio that the total annual transit trips in such State bears to the total annual transit trips in all States: *Provided,* That for purposes of this calculation the Federal Transit Administration shall include the appropriate State distribution of the funding provided to urbanized areas: *Provided further,* That the amounts recovered from such reductions shall be distributed equally: *Provided further,* That such reductions and increases shall be made only to the formula apportionments.

AMENDMENT NO. 936

Page 34, strike line 7.
Page 35, strike lines 15 and 16.
Page 35, strike line 25.
Page 36, strike line 1.
Page 38, strike lines 16 and 17.
Page 39, strike line 8 and 9.
Page 39, strike lines 24 and 25.
Page 41, strike lines 13 through 17.
Page 46, strike lines 1 and 2.
Page 46, strike lines 7 through 10.
Page 54, strike line 2.
Page 59, strike line 22.

AMENDMENT NO. 937

Page 91, after line 9, insert the following new Section:

SEC. 342 Section 104(b)(1)(A) of title 23, United States Code, relating to the National Highway System program, is amended by striking ''25 percent'' in clause (i) and inserting ''10 percent'' and by striking ''35 percent'' in clause (ii) and inserting ''50 percent''.

AMENDMENT NO. 938

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(3)(A) of title 23, United States Code, relating to the Surface Transportation Program, is amended by striking ''25 percent'' in clause (i) and inserting ''10 percent'' and by striking ''35 percent'' in clause (ii) and inserting ''55 percent''.

AMENDMENT NO. 939

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(4) of title 23, United States Code, relating to the Interstate Maintenance Program, is amended by striking ''33⅓ percent'' in subparagraph (A) and inserting ''23⅓ percent'' and by striking ''33⅓ percent'' in subparagraph (B) and inserting ''43⅓'' percent''.

AMENDMENT NO. 940

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(2) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended—

(1) in subparagraph (B)(i), by striking ''0.8'' and inserting ''0.6'';

(2) in subparagraph (B)(vi), by striking ''1.4'' and inserting ''1.6'';

(3) in subparagraph (C)(i), by striking ''1.2'' and inserting ''1.4''; and

(4) in subparagraph (D), by striking ''½ of 1 percent'' and inserting ''1.4 of 1 percent''.

AMENDMENT NO. 941

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 144(e) of title 23, United States Code, relating to the Highway Bridge Program, is amended by adding at the end thereof the following new sentence: ''Notwithstanding any other provision of this subsection, the ratio which the amount of funding apportioned to a State under this section in any fiscal year bears to the amount of such funding apportioned to all States in such year shall not exceed 110 percent of the ratio which the population in such State bears to the population in all States.''

AMENDMENT NO. 942

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(2) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended in subparagraph (B)(vi), by strking ''1.4'' and inserting ''1.6''.

AMENDMENT NO. 943

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(2) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended in subparagraph (C)(i), by striking ''1.2'' and inserting ''1.4''.

AMENDMENT NO. 944

Page 91, after line 9, insert the following new Section:

SEC. 342. Section 104(b)(2) of title 23, United States Code, relating to the Congestion Mitigation and Air Quality Improvement Program, is amended in subparagraph (D), by striking ''½ of 1 percent'' and inserting ''¼ of 1 percent''.

AMENDMENT NO. 945

On page 44, line 15, insert the following:

''Los Angeles/City of El Segundo Douglas Street Green Line connection;''.

AMENDMENT NO. 946

On page 61, line 1, strike the word ''Sepulveda'' and insert ''El Segundo''.

AMENDMENT NO. 947

On page 44, line 15, insert the following:

''Los Angeles/City of El Segundo Douglas Street Green Line connection;''.

On page 61, line 1–2, strike the following:

''Los Angeles/City of Sepulveda Douglas Street Green Line connection;''.

AMENDMENT NO. 948

On page 20, line 11, after the colon, insert ''and 5,000,000 shall be made available to carry out section 1207(c)(1)(C) of Public Law 105–178:''.

AMENDMENT NO. 949

On page 91, after line 11, insert the following new section:

SEC. 342. TRANSPORTATION EQUITY FOR FERRY SERVICES.

(a) FINDINGS.—Congress finds that

(1) The San Francisco Bay Area Regional Ferry Plan contains two phases. The first phase of the Plan is devoted to the existing ferry services operating on the Bay. The second phase considers the feasibility of new origins and destinations for passenger ferry services and institutional arrangements to best operate the ferry services on the Bay.

(2) This study is a result of initiatives to improve ferry service in the Bay Area and to develop better ways of evaluating ferry proposals. These include Senate Bill 2169 (Kopp, 1990), which suggests preparation of a Bay Area ferry plan by the Metropolitan Transportation Commission, and Proposition 116, a 1990 initiative which included $30,000,000 in capital funding for ferry improvement projects, including $10,000,000 dedicated for Vallejo service.

(3) Ferry transit has played a significant role in San Francisco Bay for almost 150 years. Vessels which brought people during gold rush days were utilized for San Francisco-Sacramento and cross-bay service. Eclipsed by highway and bridge construction during the 1930's, a faster generation of ferries are once more becoming valuable cross-bay connectors offering alternatives to congestion in some corridors, and as emergency alternatives to these same highways and bridges.

(4) The summary of Phase 1 of the Plan includes (1) goals and objectives for the region's ferry services, (2) description of current ferry services, (3) an evaluation of the existing ferry services, and (4) recommendations to improve the existing ferry services. Funding has been secured for many of the recommended improvements (e.g., vessel purchases and terminal improvements), which will be implemented over the next few years and are expected to significantly increase ferry ridership in the Bay Area.

(5) The summary of Phase 2 of the Plan includes (1) a detailed evaluation of and recommendations for potential new ferry routes throughout the region, and (2) an evaluation of and recommendations for institutional arrangements to best operate ferry services. The evaluation of new routes analyzes the expected performance and the implementation steps needed for potential new services. An important factor for all Phase 2 services is that current services consume all existing funding available.

(6) Any implementation of Phase 2 requires additional new revenue sources.

(7) As regional and local agencies look to the future of the San Francisco Bay Area, goals include transportation mobility, transit coordination, clean air, fully accessible transit, reduction in dependence on the automobile, emergency preparedness transit alternatives, access to recreation and tourism, energy-saving transportation, and environmentally superior and cost-effective alternatives to new highway construction. When applied to the appropriate corridors, ferries can provide the means for achieving all of these regional objectives.

(7) Experience in other metropolitan areas of North America is indicating increasing utilization of ferries for commute and non-commute travel, particularly in New York, Boston, Vancouver, and Seattle. Goals and objectives vary, but providing attractive alternatives to congested highways and transit linkages are universal, as are goals to reduce the use of automobiles in congested central cities.

(8) A set of goals and polices for Bay Area ferry service are proposed based on the regional transportation and air quality goals, and experience with ferry service in other areas. In sum, the proposed goals are to enhance regional mobility and support regional planning policies, create a transit option that is an attractive alternative to the automobile, offer a transit option that can be initiated in a timely environmentally benign, and cost effective manner, provide transit service that operates efficiently and reduces the need for high cost alternative transportation investments, provide ferry service that is reliable, safe, and fully accessible and develop terminals that are consistent with local and regional plans.

(9) The Plan has developed a comprehensive set of criteria to evaluate the existing services and potential new ferry services. It is important to have a set of evaluation criteria in place for two purposes.

(10) First, criteria are essential for the evaluation of competing proposals for ferry service, where operating and capital funds are limited. Second, the criteria are important for the evaluation of ferry service as a temporary or permanent alternative to other transportation investments such as building a new bridge, widening a freeway, or building an alternative transit project.

(11) This list of criteria can also act as a checklist for consideration when ferries are proposed as traffic mitigation or emergency service providers.

(12) Golden Gate Bridge, Highway, and Transportation District's (GGBHTD) and Red & White both serve Sausalito, but at different times of the day. Geographically, Sausalito is ideally suited for the six mile commute to San Francisco. The terminal facilities in Sausalito are spartan and not accessible to persons with disabilities.

(13) Golden Gate's eleven mile Larkspur to San Francisco route is the most integrated and efficient ferry system in the Bay Area. Three large, medium speed ferries, operating from well engineered terminal facilities, provide very nearly a shuttle service from Marin County to San Francisco. Of approximately 2,000 daily Marin County ferry commuters, the Larkspur service carries 1,400 of them. The two mile Larkspur Channel with its wake restriction is a significant constraint to Larkspur service, and present PM peak period traffic conditions preclude greater use of autos for terminal access.

(14) Like Sausalito, Tiburon has ideal geographic conditions, but rudimentary terminal facilities. Red & white operates non-subsidized service between Tiburon and San Francisco, providing commuter service to downtown San Francisco via the Ferry Building (Pier 1/2) and non-commute service to Fisherman's Wharf.

(15) Subsidized ferry service has been provided from Oakland and Alameda to San Francisco since the 1989 Loma Prieta earthquake. Seventy five percent of the riders are commuters and most of these come from Alameda where the facilities have just been substantially improved. The service is currently provided by a leased vessel which is slow in both loading and crossing. While commute times from Alameda are competitive with auto, bus and BART, the Oakland service is not.

(16) Red & White provides subsidized service to Vallejo in the longest current Bay Area ferry route. The single commute trips in the morning and afternoon are essentially full, while the three non-commute round trips in between account for nearly an equal number of passengers. As is the case in Larkspur, a two mile wake restricted channel adds extra time to the Vallejo commute. The current vessels make the trip in about 70 minutes.

(17) The findings of the evaluation of the existing services fall into three main categories: travel time of ferry services is not competitive with the automobile, frequency of ferry services are not adequate and ferry terminal facilities do not offer basic amenities or adequate accessibility.

(18) The current commute time between Sausalito and San Francisco is 30 minutes, which is not competitive with the automobile.

(19) The terminal facilities in Sausalito do not provide adequate accessibility to persons with disabilities. The terminal facilities do not meet published guidelines for barrier free access in the areas of gangway slope, tactile makings for the sight impaired, and protective railing on floats.

(20) The current Larkspur to San Francisco service is well conceived and provides excellent shoreside facilities. The terminals, both in Larkspur and San Francisco, are well designed for passenger flow, passenger safety, and passenger comfort.

(21) The ferry commute time between Larkspur and San Francisco is excessive (45 minutes), which is not competitive with the automobile.

(22) The access into and out of the parking lot at the Larkspur terminal is not adequate. On the return trips from San Francisco it can take up to 15 minutes to get out of the parking lot, which significantly adds to overall travel time.

(23) The Red & White ferry service to Tiburon is efficient and could accommodate increased patronage.

(24) The terminal facilities in Tiburon do not provide adequate accessibility to persons with disabilities or covered passenger waiting areas.

(25) The total ridership on the Alameda/Oakland service has been increasing. Approximately 70% of commute period ridership is from Alameda.

(26) Alameda shows strong potential as a commute terminal.

(27) With a short channel speed restricted zone, auto commute time is significantly longer than the current ferry travel time of 20 minutes.

(28) The Oakland terminal has limited residential access to the ferry terminal, which results in limited commute trips. However, midday and weekend service from Oakland is and is expected to continue to be productive.

(29) The current vessel on the Alameda/Oakland service is not suitable, both by loading arrangement (accessibility) and speed for commuter service from Alameda and Oakland.

(30) Given the traffic congestion on I–80, Vallejo is an excellent candidate for high speed ferry service.

(31) The current service consists of one commute trip each day, which does not provide adequate capacity or a real commute option for commuters from Solano County.

(32) Ferry travel time between Vallejo and San Francisco is approximately 65–70 minutes, which is marginally competitive with the automobile.

(33) The Pier ½ terminal facility in San Francisco is served by the ferry services from Alameda, Oakland, Tiburon, and Vallejo. The Pier ½ terminal facility is deficient in a number of areas, including:

(34) Ramps and floats are not adequately accessible to persons with disabilities.

(35) There is not adequate sheltered passenger waiting area.

(36) There is no area for convenient and easily accessible connecting bus service, so that ferry passengers can easily transfer to buses servicing Union Square, the Civic Center, and the City's various institutions.

(37) The recommended ferry service improvement plan for the existing services is based on: (1) a plan to resolve the service deficiencies identified in the evaluation of the

existing services, and (2) a service plan that supports ridership projections.

(38) In order to carry out one of the major goals of the Plan that the recommendations lead to the implementation of improved services, the plan set out parameters in developing the recommended service improvement plan.

(39) The major parameters/guidelines used in developing the service improvement plan are as follows: a plan that could be implemented, accounts for the current planning of the individual operators, and can be financed (operating and capital), maximizes ridership in relation to funding investment, provides incremental approach to service improvements, coordinate ferry services to extent possible with other transit services.

(40) In general, the major service and capital improvement recommendations in the plan include interlining some of the existing services, so in a sense there are three routes provided: a Larkspur-San Francisco-Sausalito route, an Oakland-Alameda-San Francisco-Tiburon route and a Vallejo to San Francisco route; purchasing five to six new high speed catamarans; constructing terminal improvements at Pier ½ in San Francisco, and in Vallejo, Sausalito and Tiburon; and improving the current feeder bus services to all of the ferry terminals.

(41) The recommended service improvement plan for GGBHTD's Larkspur and Sausalito services include purchasing two high speed catamarans to operate on the Larkspur and Sausalito services, operating a 68 weekday trip schedule (38 Larkspur-San Francisco, 30 Sausalito San Francisco), compared to 46 at present. Hourly midday service would encourage peak hour patronage because of the additional flexibility. This service plan would allow the district to operate 15 to 30 minute headways between Larkspur and San Francisco during the a.m. peak period as opposed to the 30 to 40 minute headways currently being provided, reduce the travel time between Larkspur and San Francisco from the current 45 to 50 minutes down to 30 minutes, which is faster than the automobile between the Larkspur area and San Francisco, allow the District to provide a total of 45% more service in about the same number of operating hours as currently being operated, due to the faster vessels. Therefore, the total operating cost for the increased service level is not that much more than for the current operations, improve parking access to/from the Larkspur ferry terminal (The City of Larkspur is currently improving the access into/out of the terminal), and improving terminal facilities in Sausalito.

(42) It is estimated that this service plan will generate 7,000 daily riders on the Sausalito and Larkspur services compared to about 5,500 riders at present. Service would begin upon the delivery of new, fast vessels and the 1994–95 fiscal year would represent the first full year of operation.

(43) The recommended service improvement plan for the Tiburon-Alameda-Oakland services includes the purchase of two high speed catamarans to provide service on one continuous route between Oakland-Alameda-San Francisco and Tiburon, operating 64 weekday trips compared to 37 on the two routes at present, including hourly service during the midday. This service plan would use vessels more efficiently—one high speed vessel will have difficulty maintaining hourly headways between Oakland-Alameda-San Francisco.

(44) While one vessel would have slack time in operating hourly headways between Tiburon and San Francisco, it will provide more commute service between Alameda and San Francisco, which has the most potential of the three locations for ridership gains. The commute service level for Oakland and Tiburon would remain about the same as it is now.

(45) Improvements to feeder bus services are proposed, including both rerouted Alameda buses and better service to the Tiburon terminal.

(46) It is estimated with this level of service that ridership on these services would increase about from about 1,500 daily riders to over 2,600 daily riders. However, given that Red & White Fleet operates un-subsidized service to Tiburon, some type of coordination between those entities or some type of different institutional arrangement would have to be worked out before this service improvement could be implemented. Given this, at this time, the Plan is recommending that initially one high speed vessel be purchased for the Alameda-Oakland-San Francisco service and the Tiburon service remain unchanged.

(47) The recommended service improvement plan for the Vallejo-San Francisco service includes purchase and operation of two high speed vessels on a 28 day weekday trip schedule in contrast with six trips at present, (this service plan would reduce the one way travel time between Vallejo and San Francisco to about 55 minutes, compared to about a 65 to 70 minute travel time on that service now), provide three to four a.m. commute trips (compared to the one a.m. commute trip currently provided), construct an intermodal facility in Vallejo, and improve local connecting bus services and connecting bus services from locations throughout Solano County.

(48) With this service level and anticipated growth in Solano County, the Plan projects that ridership on the Vallejo service would increase significantly—from about 800 riders per day to about 2,500 riders per day. Expanded service is expected to begin in 1994 and the 1994–95 fiscal year would represent the first full year of operation.

(49) The recommended service improvement plan for the Pier ½ terminal facility are: provision of an adequate number of ferry slips (these slips should accommodate the required number of peak period vessels in an efficient and convenient method), central control over the ferry docking facilities in San Francisco by the Port Commission to ensure that any potential provider of viable ferry service has access to a convenient and coordinated facility, provision of barrier free accessibility for disabled persons to all ferry docks, provision of a convenient passenger environment sheltered from poor weather and featuring comfortable waiting areas, provision of convenient and easily accessible connecting bus service.

(50) The plan looked at a number of different vessel types to operate the recommended service levels. Including conventional monohulls, catamarans, hydrofoils, hovercrafts and surface effect ships.

(51) The vessel types were evaluated on a number of factors including, capital and operating cost, speed, size of the vessel, comfort, reliability, accessibility and ability to be build in the U.S.

(52) Several vessels exist which meet the requirements developed for the individual routes. At the time of bid, other possibilities may exist, but in 1991 the supply of adequate high speed, high capacity boats is limited.

(53) To operate the recommended service plan for the Vallejo and Larkspur services, vessels capable of around 35 knots (38 mph), are necessary to provide transit speeds that are competitive with the automobile. The recommended vessels for these services are either the 37 meter Westamarin catamaran from Norway or the 35(S) meter Incat design from Australia. Both vessels can be build in the U.S., although to date neither has, are capable of appropriate commute speeds, represent existing proven technology and are suitable for all sea and climatic conditions. It is recommended that the GGBHTD and City of Vallejo jointly procure vessels, which result in ship-builder economies of scale and lower costs to the public. The cost of each vessel is projected at $5–5.5 million.

(54) At this time, it is recommended that initially one new vessel be purchased for the Alameda/Oakland-San Francisco service, pending resolution of institutional issues with the Tiburon service and pending successful testing of Alameda service. It it appears that this arrangement can be achieved, it is recommended that a second vessel be procured to operate the service. A 25–26 knot vessel is recommended for the Alameda/Oakland service—at an estimated cost of $2.5–3 million per vessel.

(55) The Plan recommends that the Alameda, Oakland, and Vallejo ferry services continue to be operated by private ferry operators under contract to public agencies. The public agencies would purchase and own the recommended vessels and contract out the operations of those vessels to a private operator(s). It is believed that the free market provides a powerful incentive to the private sector to make a profit and that this motivation can be harnessed to increase overall system productivity.

(56) The Plan evaluated 17 potential ferry routes throughout the Bay Area. The routes that were evaluated were determined by review of past and current ferry service proposals and the routes evaluated as part of MTC's Bay Crossing Study. Considerations were also given to the potential to interline routes—either making multiple stops or alternating service routes with a single vessel in order to gain greater efficiency in the utilization of vessels and crew. While commute routes are the primary focus for this analysis, consideration has also been given to recreational ferry services, facilitation of bicycle access, accommodation of freight, and emergency preparedness capabilities of ferry services. Each of the potential routes was evaluated on number of criteria, including projected patronage levels, financial performance (e.g. cost per passenger), environmental impacts, and capital and operating costs and requirements.

(57) A key factor regarding implementation of new services is that operating and capital subsidy funds for transportation projects are extremely limited. In general, there are limited capital funds available for new projects; however, existing operating funds are used to their maximum. In fact, many transit operators in the region are reducing their services due to the lack of operating support. Therefore, a crucial component of implementing any new ferry service is securing additional fund sources.

(58) The evaluation criteria were assessed individually and as a whole for each route. For example, if a particular route did not perform well on a certain criteria (e.g. no facilities in Place), but performed well on all other criteria, it could be given favorable consideration. At the same time, there could be one criteria (e.g. major environmental issues or other planned transit improvements in the same corridor) that could override other more favorable factors and make the route not feasible. Based on this analysis, the routes were grouped into the three categories, as follows:

(59) Four routes are recommended for further consideration in this Plan. Further study does not represent a recommendation for implementation at this time, but preparation of a more detailed consideration in the regional plan to determine the feasibility of implementation. The four routes are:

—Port Sonoma/Marin—San Francisco
—Martinez—San Francisco
—Berkeley/Albany—San Francisco
—Alameda (Bay Farm Island)—San Francisco

(60) These routes are the best performing routes in terms of patronage and financial performance. All of the routes are projected to recover more than 50% of their costs from the farebox and require subsidy levels that are consistent with other transbay transit services in the region. Major adverse environmental concerns (dredging, wake impact) are not expected with these services.

(61) Port Sonoma-Marin-San Francisco: Of the routes evaluated, this route is projected to have the highest ridership (438 passengers for three A.M. peak departures) and the best financial performance. Ferry travel time (one-way) is projected at about 45 to 50 minutes, which is about 30 minutes faster than driving between Novato and San Francisco (single occupant auto). This service has been proposed by a private organization as a mitigation to a development in the Bel Marin Keys area. The developer has indicated that it will at least partially fund the service. No dredging or major wake impacts are expected due to this service.

(61) Martinez-San Francisco: Ridership projections for this route are 250 peak passengers for one A.M. peak departure. Ferry travel time (one-way) is projected to be about 55 minutes, which is about 30 minutes faster than driving between Martinez and San Francisco (single occupant auto). The Martinez area does not have a high level of other transit options to San Francisco. No dredging or major wake impacts are expected due to this service.

(62) Berkeley/Albany-San Francisco: Morning peak patronage is expected to exceed 270 passengers for three peak trips. The Golden Gate Fields option at Gilman Street promises stronger midday patronage and also serves portions of Berkeley and Albany that are not well served by other transbay transit. It is estimated that on race days total daily ridership would be approximately 1,200 passengers per day for this 20 minute crossing. There would be some dredging needed at the Golden Gate Fields terminal location.

(63) Alameda (Bay Farm Island)-San Francisco: This service was implemented in March, 1992. The proposed service has docking facilities in-place in Alameda and in San Francisco. A.M. peak ridership is expected to be 217 passengers for three 23 minute trips; current ridership is about 75% of projections. The route is currently supported by a private development firm. No dredging or major wake impacts are expected due to this service.

(64) The routes in this category do not perform as well as the routes recommended for further evaluation. Given limited operating resources, these routes are not recommended for further evaluation at this time, but are worthy of future consideration as circumstances change. These circumstances include population increases near terminal facilities, delays or elimination of other planned transportation improvements, ability to provide lower cost ferry service, and new sources of operating subsidies. The routes recommended in this category are Richmond-San Francisco, San Leandro-San Francisco, Rodeo-San Francisco.

(65) In general, these routes are projected to recover less than 50% of their costs from the farebox and require subsidy levels that are between $3.00 and $5.00 per passenger, which is higher than existing transbay transit services in the region.

(66) Richmond-San Francisco: Of the routes in this group the Richmond service using the Point Richmond docking site has the best overall performance. Projected ridership is about 240 A.M. peak riders generating about a 41% farebox recovery ratio; the subsidy per passenger is projected to be $3.40 per passenger. The major limiting factors for a Richmond service are that patronage is constrained because at this time there is no midday travel generator and there are good commute services between central Richmond and San Francisco provided by AC Transit and BART. Bus services and shared ride auto travel is expected to improve between Richmond and San Francisco with the planned construction of high occupancy vehicle (HOV) lanes on Interstate 80 between Richmond and the San Francisco Bay Bridge. Also, during the construction project period, a number of transit improvements are planned for the I–80 corridor as mitigation measures. As the I–80 improvement project begins and mitigation measures are implemented and evaluated, it is recommended that the City work with Caltrans to determine if there is the need and available mitigation funding to consider ferry service from Richmond as a mitigation project. The City of Richmond has indicated that the commercial and industrial base in Richmond is growing and further developments are expected. As residential and commercial densities grow in the terminal areas, ferry patronage would be expected to increase which would enhance the feasibility of ferry service from Richmond. MTC will be assisting the transit operators in the I–80 corridor to develop a long range finance plan for transit services in the corridor. It is recommended that the City of Richmond participate in these planning efforts so that ferry services between Richmond and San Francisco can be further considered as a long-term transit project for the I–80 corridor. Additionally, the East Bay Regional Park District has expressed interest in examining alternate uses for the Point Richmond docking facility (e.g. shared ferry maintenance facility, etc.). It is recommended that the Park District and City explore alternate uses of these facilities in conjunction with the proposed Ferry Consortium.

(67) Rodeo-San Francisco: Projected ridership for service between Rodeo and San Francisco is about 250 A.M. peak rider for a one vessel service. Projected riders are fairly high for this service because there are not good transit service options to San Francisco from the Rodeo, Crockett, and Pinole areas. The greatest limiting factor for a service from Rodeo is the need to widen and dredge the marina, build a dock, and provide parking, which is estimated to cost about $4.0 million.

(68) San Leandro-San Francisco: Projected ridership for service between San Leandro and San Francisco is about 200 a.m. peak riders. The subsidy per passenger is projected to be $4.77, which is significantly higher than other ferry services. Ridership for a San Leandro service is constrained because the major population centers in the area are east of I–880 and are served by the BART system, while the area near the marina is primarily industrial. Ferry service from San Leandro would only be feasible if higher density residential areas developed near the San Leandro marina.

(69) Based on the evaluation, the routes listed below are not feasible for ferry services. Ridership levels are projected to be low and for many of these areas there are other existing or planned transit services serving the same corridors. These routes are Benicia-San Francisco, Pittsburg-San Francisco, Redwood City-San Franciso, South San Francisco-San Francisco, Redwood City-San Leandro, Benicia-Martinez, and South San Francisco-San Leandro.

(70) In each case, the potential ridership was projected to be under 200 during the a.m. peak period, farebox recovery ratios were projected to be less than 35%, and the subsidy per passenger required to support the services is between $6.00 and $12.00 per passenger, which is significantly higher than current ferry services and other transbay transit services.

(71) Based on the preliminary analysis of airport, recreational and vehicle/freight ferry services, it appears there could be potential for these types of services, but a more thorough analysis of each type is needed. Therefore, it is recommended that MTC, Caltrans, the proposed Ferry Consortium and other interested parties should discuss and examine the need and the method to further evaluate ferry services related to ferry services feeding the San Francisco and Oakland airports, recreational ferry services, and vehicle, truck and freight movement ferry services.

(71) The Plan refined the patronage forecasting, service planning, vessel and facility analysis, and financial analysis for the four routes that were recommended for further evaluation: Port Sonoma-Marin to San Francisco, Martinez to San Francisco, Berkeley/Albany to San Francisco and Alameda/Bay Farm Island to San Francisco.

(72) One of the routes, the Bay Farm Island to San Francisco service, also known as the Harbor Bay Isle Ferry, recently initiated operation. This is a privately funded service intended to operate as a demonstration for at least three years. At the end of this period this service should be evaluated against the goals and objectives outlined in this study.

(73) Of the potential ferry services analyzed, service from Port Sonoma-Marin is found to be overall the most effective. A high speed ferry service from Port Sonoma would significantly reduce the travel time between the Port Sonoma/Novato area and San Francisco.

(74) The financial performance of the Port Sonoma-Marin service is also very good. The required subsidy per passenger trip is estimated to be about $1.60 and the farebox recovery ratio for the Port Sonoma ferry service is approximately 70%, which are both significantly better than most transit systems operating in the San Francisco Bay Area.

(75) The capital cost requirements for the service are significantly greater than the other ferry service analyzed in this report. The contributing factor is that this service requires two high speed vessels to be successful. The capital costs for the vessels and terminal improvements are projected to be about $12.5 million, which is almost twice as much as any of the other services.

(76) At present there is not a midday market for the service. Lack of service during the midday could reduce commute ridership.

(77) Ferry service from Martinez would be effective. One way travel time between Martinez and San Francisco on the ferry service (55–60 minutes) is estimated to be 35% faster than by automobile (drive alone) and 29% faster than the combination of BART express bus and BART rail service.

(78) A major concern regarding the Martinez service is that the proposed level of service (one a.m. and one p.m. departure) does not offer enough of an option for commuters to sustain projected ridership for the long-term. The limited peak period service limits total ridership levels.

(79) There is not a midday market for the service between Martinez and San Francisco. Lack of service during the midday could reduce commute ridership, since returning during the midday is not an option for the commuter. To adequately use the vessel for this service, midday uses for the vessel should be explored.

(80) The Martinez service has the best financial performance and the lowest amount

of operating subsidy required of the services analyzed. The required subsidy per passenger trip would be about $1.30 and the estimated farebox recovery ratio for the Martinez ferry service is approximately 75%.

(81) Although its travel time is comparable to BART service and AC Transit express bus service between Berkeley/Albany and San Francisco, this service may be slightly less convenient because it does not offer as frequent service during peak periods.

(82) The Berkeley/Albany service is the only one of the services analyzed that offers a viable midday trip generator. The service would provide direct Golden Gate Fields racetrack access, which reduces traffic during the midday on I–80 and maximizes the use of the vessel and should help support the commute period riders by having the option of returning to their point of origin during the midday.

(83) The financial performance of the Berkeley/Albany service is not as good as the other new ferry services analyzed. The required subsidy per passenger trip is estimated to be about $2.70 and the farebox recovery ratio for the Berkeley/Albany service is approximately 45%. The Berkeley/Albany service also requires the most annual operating subsidy of the services analyzed. It is estimated that this service will require about $700,000 in annual subsidy support.

(84) The Harbor Bay Isle service is currently averaging about 310 total passengers per weekday day, which is about 100 daily riders less than anticipated by Harbor Bay Maritime and about 70% of the ridership projections in this plan.

(85) The current service is significantly faster than other modes of travel between Bay Farm Island and San Francisco. Current one way travel time, including access time, on the Harbor Bay service is approximately 30 minutes including access time, which is about 20 minutes faster than by automobile (drive alone) and about 14 minutes faster than AC Transit express bus service. However, the ferry service is more costly to the passenger than AC Transit's express bus service.

(86) Based on projected ridership levels and the plan's estimate of costs (excludes vessel lease costs), the required subsidy per passenger is estimated to be about $2.15 per passenger and the estimated farebox recovery ratio for the service is approximately 62%.

(87) Overall, all of the potential new services (Port Sonoma, Martinez and Berkeley/Albany) would represent a beneficial enhancement to the matrix of transportation options available in the Bay Area. While the new services would not have a large impact on San Francisco bound commute traffic, together with existing transit services they offer another viable option to the private automobile. The Alameda Bay FarmIsland/Harbor Bay service has expanded ridership levels from the City of Alameda without significantly diverting patronage from the preexisting Alameda ferry service. AR of the services would: (1) be faster than autos; (2) provide new transit service without significant capital investment compared to alternatives; (3) provide an emergency preparedness option; and (4) take vehicles completely off of the bridge/highway system. Also, a few of the routes include opportunities for long-term private investment which is of critical importance during this period of greatly constrained public revenues. Private investment in ferries increases the overall economic viability of the services.

(88) However, the implementation of any of the new services relies on a number of outstanding factors. The most important include determining a project sponsor(s) to pursue the implementation of the services, and securing capital funds and long-term operating support for the services.

(89) The first step for a new service is to determine what entity or entities (local jurisdiction, private party, etc.) will implement and operate the services. This plan analyses the expected performance, the operating and capital needs, and the remaining implementation steps for each of the services. It will ultimately be up to the project sponsors to use this analysis and their own information to determine if the implementation of the ferry services are consistent with their plans and within current resources. At present, there are inadequate federal, state, and regional funds to support the operations of the new services without adversely affecting existing transit services.

(90) The report recommendations are presented as: (1) the step(s) on the part of the project sponsors that need to take place to begin implementation and/or continuation of the services; and (2) policy direction and role for the Metropolitan Transportation Commission (MTC) in the review, planning, and funding of new ferry services.

(91) The steps required for implementation of the potential services address the critical issues that will need to be resolved by the local jurisdictions/project sponsors for each route to determine their ultimate ability to be implemented. These issues include securing operating and capital funds for the services, completing access improvements to the terminals, finding sponsoring agencies to manage and operate the services, and securing required governmental approvals. Many of these issues hinge upon one another and most will need to be fully satisfied prior to investments in the services. It is recommended that MTC support and public fund investments in any of these services be contingent upon completion and/or substantial progress being made on all of the outstanding implementation issues. For example, it would not be prudent to invest public funds into capital requirements (e.g. vessels purchases) for any service until required governmental approvals (e.g. BCDC, PUC, local jurisdiction approvals) or adequate operating funds have been secured. The implementation steps are outlined for each service below.

(92) Operating and Capital Financial Support. A commitment on the part of the private sponsor is needed for the required capital equipment and to support long term operations. The proposed sponsor's interest (Venture Corporation) is contingent upon approval of the Bel Marin Keys development. Without approval and construction of that project, Venture Corporation will not develop the system. If Venture Corporation does not exceed with its current plans, another public and/or private sponsor will be required to implement the service. Such entity will need to secure funding and obtain landing rights at Port Sonoma.

(93) Terminal Access: Access improvements are needed to the terminal facility (traffic light at the intersection of the marina access road and Highway 37) and additional traffic impact analysis would be needed to fully determine the traffic impacts on Lakeville Road and Highway 37 to determine other needed roadway improvements. The sponsor will need to discuss with GGBHTD re-routing and expanding its bus service to the proposed ferry terminal.

(94) Project Sponsor: The sponsor should contract the management of the service with the Golden Gate Bridge, Highway and Transportation District.

(95) Governmental Approvals: Approvals must be secured from Sonoma County, BCDC, and the Corps of Engineers for required terminal construction or any other required shoreside improvements.

(96) Operating and Capital Financial Support: A commitment of funding is needed from local jurisdictions/transit operation(s) for the required capital equipment (vessel and terminal construction) and to support long-term service operations.

(97) Terminal Access: Local jurisdictions and CCCTA will need to work together for CCCTA to extend buses to provide feeder bus service to the ferry terminal.

(98) Project Sponsor Project sponsor(s) will need to be determined. Local jurisdictions will need to work with CCCTA to sponsor the service.

(99) Governmental Approvals: Approvals are needed from BCDC for required terminal construction, terminal parking use and improvements and any other shoreside improvements. The East Bay Regional Park District and City approvals are also required.

(100) Project Sponsor: Project sponsor(s) will need to be determined; it is recommended that AC Transit sponsor the service.

(101) Operating and Capital Financial Support: A commitment of funding is needed from local jurisdictions/transit operator(s) for the required capital (vessel and terminal construction), channel dredging costs, and to support long-term operations. Given that the midday service would serve patrons of Golden Gate Fields racetrack, local jurisdictions should work with Golden Gate Fields.

(102) Terminal Access: Local jurisdictions will need to work with AC Transit to reroute buses to provide feeder bus service to the ferry terminal.

(103) Governmental Approvals: Approvals must be secured from BCDC for required terminal construction, dredging or any other shoreside improvements. Corps of Engineers approval will be needed for dredging and the protective breakwater. Because of the more complex facility approvals required in addition to construction, implementation of this route would take longer than others.

(104) The service has been implemented as a privately operated and funded service and is expected to remain so for at least three years. If Harbor Bay Maritime does not intend to operate and fund the service beyond the current agreement, a project sponsor(s) for the service will need to be determined. It has been indicated that the City of Alameda may consider taking over the operation and financing of the service after Harbor Bay's commitment. If the City is going to pursue the service, it is recommended that the first step to determine the continuation of this service be that the City of Alameda further evaluate the service based on its performance as a privately operated service over the next two years.

(105) Operating and Capital Financial Support: A commitment of long-term operating funding will be needed if Harbor Bay Maritime does not operate and fund the project beyond the current agreement.

(106) Potential service sponsors/operators should be required to participate in the proposed Ferry Consortium (see Institutional Analysis), to increase the level of coordination between services and identification of potential benefits of joint activity.

(107) MTC should require the long-term operating support be identified and secured for new services before any public fund investments (federal, state and regional funds) are granted for new services. It is recommended that existing funding not be diverted from other projects.

(108) MTC should require that other approvals (BCDC, U.S. Army Corp of Engineers, etc) and other identified service requirements (e.g. terminal access improvements) are in place prior to investments of public funds in the services.

(109) MTC should work with project sponsors/operators to find additional fund sources that can be used for capital and operating

purposes. If new, stable operating fund sources are secured for transit service, these new ferry services should be considered for regional financing to add to the Bay Area transportation network.

(110) MTC should require inter-operator coordination for all new services, so that the potential ferry services operate in conjunction with planned feeder transit service. MTC could facilitate local jurisdictions and transit operators to exploring varying institutional arrangements to operate and manage the services.

(111) MTC should not be in a lead position on the implementation of the proposed services, but it should provide planning assistance and provide guidance on funding issues, where needed. Planning assistance could include further examination of ways vessels could be best utilized for ferry services on the Bay, including sharing vessels between services, interlining existing services with new points of origin, finding midday markets/uses for vessels used only during commute periods, and assessing the need for 'spare' vessels.

(112) MTC should require that project sponsors purchasing new vessels consider the ability to interchange parts with other vessels operating in the region and the coordination of maintenance activities as part of their vessel bid and specifications and vessel maintenance planning.

(113) MTC should work with regulatory agencies (BCDC, PUC and U.S. Army Corps of Engineers, PUC, U.S. Coast Guard) to make governmental approval process understandable, coordinated and as streamlined as possible.

(114) MTC, Caltrans, the proposed Ferry Consortium and other interested parties should participate in examining the need to further evaluate ferry services related to: (1) ferry services feeding the San Francisco and Oakland airports including serving the United Airlines maintenance/operational facilities, (2) ferry services as they relate to emergency preparedness, (3) recreational ferry services, and (4) vehicle, truck and freight movement ferry services.

(115) There are a number of opportunities to improve the planning and operation of ferry services on the Bay by coordinating and/or consolidating ferry service operations. Based on our review of the varying institutional arrangements, a two pronged approach is recommended to immediately improve the coordination, planning and operations of ferry services on the Bay:

(116) First, existing and potential publicly operated or funded ferry services should be institutionally merged with existing transit operators/ districts, where feasible; and

(117) Second, a consortium or working group of public and private ferry operators should be established. The consortium would include public and private ferry operators, ports, cities, connecting transit operators, and concerned citizens, who would meet on a regular basis to discuss policy, planning and operational objectives to advance and coordinate ferry services on the Bay.

(118) The combination of these options would facilitate bus/ferry coordination, faster and coordinate regional and sub-regional policy and planning for ferry services, and increase funding to the region and for ferry operations, and could be implemented readily and immediately.

(119) Although not recommended at this time, the possibility remains that some form of a regional ferry agency may eventually be both warranted and readily feasible. As described above, a regional ferry agency, either a JPA or a legislated regional ferry district could provide many operational improvements, such as coordinated maintenance and marketing, ability to share vessels between services to maximize labor efficiencies, and savings from consolidated vessel and equipment purchases. Therefore, it is further recommended that MTC in conjunction with the ferry operators further examine the opportunities that may exist with a regional ferry agency, especially as the network of ferry services grow on the Bay.

(120) This arrangement includes incorporating the operational and planning functions for the Bay's publicly operated ferry services into the existing operations of connecting bus services. This is already the situation for GGBH&TD and the City of Vallejo, which operate both the bus systems and ferry services within their respective service areas. For example, under this arrangement ferry services from the East Bay would be operated by AC Transit, or BART; services from Marin, Sonoma and San Francisco Counties would be operated by GGBH&TD or San Francisco Muni; and services started from San Mateo County would be operated by SamTrans.

(121) This arrangement limits the number of transit operators, thereby not duplicating transit planning and operational activities: facilitates better bus/ferry schedule and transfer connections; and allows ferry services to be part of comprehensive transit planning activities.

(122) The Bay Ferry Consortium appears to be an immediately feasible option for ferry services. This arrangement would provide a forum for ferry operators to share information, be involved jointly in activities, coordinate planning and form regional objectives for ferry services. Initial consortium membership should include public and private ferry operators (GGBH&TD, Red & White Fleet, Blue & Gold Fleet, the Cities of Alameda, Vallejo, Oakland), MTC, BCDC, representatives of intermodal transit agencies which would connect with the ferries (MUNI, AC Transit, etc.), Caltrans, rider group representatives, and others as determined by the membership. The Consortium would be expected to meet as a committee of the whole quarterly or on an as needed basis.

(123) The activities of the consortium would be the basis for implementing the recommendations of the Regional Ferry Plan and for continued regional ferry planning. However, the major shortcoming of the consortium is that it does not have policy authority over individual ferry operators; therefore, the operators are not bound to follow the direction of the consortium. To offset this, it is recommended that the consortium be advisory to MTC on ferry issues.

(124) MTC already provides substantial operating and capital funds for ferry services and is responsible for certain coordination activities for transit systems in the region. The consortium should explicitly acknowledge the role of MTC as the lead agency in coordinating regional ferry planning and in reconciling differences and coordinating the activities of the individual ferry operators and other transit operators. While the concept of a consortium would be to establish mutually beneficial relationships between the parties providing ferry services, it is recommended that MTC make operator participation in the consortium a requirement for the receipt of operating and capital funding. This would give policy direction to and the ability to implement the recommendations of the consortium.

(125) The Regional Ferry Plan contains two phases. The first phase of the Plan is devoted to the existing ferry services operating on the Bay. The second phase considers the feasibility of new origin and destinations for passenger ferry services and institutional arrangements to best operate the ferry services on the Bay. Phase I of the Plan includes (1) goals and objectives for the region's ferry services, (2) description of current ferry services, (3) an evaluation of the existing ferry services, and (4) recommendations to improve the existing ferry services. Phase 2 of the Plan includes (1) a detailed evaluation of and recommendations for potential new ferry routes throughout the region, and (2) an evaluation of and recommendations for institutional arrangements to best operate ferry services.

(126) The City of Vallejo and the Metropolitan Transit Commission, in response to legislative mandate, bond issue direction, and local and regional transit plans, have jointly undertaken this Regional Ferry Plan to analyze existing ferry transit resources and to plan for new ferry services in San Francisco Bay. The two specific mandates for the study are Senate Bill 2169 (1990) and Proposition 116 from the June 1990 general election.

(127) The key legislation which shapes the San Francisco Bay Ferry Study is California Senate Bill No. 2169. Filed in response to the experience of the 1989 Loma Prieta Earthquake, and increasing interest in ferry transit by a variety of interests, including the Bay Area Water Transit Task Force, it is intended to give transit planners an evaluative tool in decision-making for ferry systems in the future.

(128) Senate Bill 2169 (Kopp, 1990) authorizes the Metropolitan Transportation Commission to develop and adopt a long-range plan implementing high-speed water transit on the bay. Its language indicates: ''The commission may develop and adopt a long-range plan for implementing high-speed water transit on San Francisco Bay, including, but not limited to, all of the following:

''a. Policies and procedures for allocating capital and operating assistance from local, state, or federal funds.

''b. Criteria and standards for evaluating and selecting services to be funded with local, state, or federal funds, based upon, but not limited to fare box revenue to operating cost ratio, amount of subsidy per passenger and local financial support, local support in providing ground access, and impact on bridge traffic.''

(129) The California Clean Air and Transportation Improvement Act of 1990 initiative measure, passed by the voters in June 1990, while primarily oriented to investment in rail improvements, contained an element for capital improvements to ferry service. This included the following sections:

''99646. Ten million dollars ($10,000,000) shall be allocated to the City of Vallejo for expenditures on water-borne ferry vessels and terminal improvements.

''99651. Twenty million dollars ($20,000,000) shall be allocated to fund a program of competitive grants to local agencies for the construction, improvement, acquisition, and other capital expenditures associated with water-borne ferry operations for the transportation of passengers or vehicles, or both.''

(130) This study has been undertaken within the framework of existing regional transit and environmental Policies with the aim of establishing a short-term action plan for the implementation of expanded ferry service in San Francisco Bay and specifically for Vallejo. It builds on the 1985 High Speed Water Transit Study for the San Francisco Bay Area prepared by MTC.

(131) The recently completed San Francisco Bay Crossing Study (mandated by Senate Concurrent Resolution 20) also studied a ferry alternative including up to 17 terminals served by a fleet of fast ferries as an option to additional bridge or rail crossings of the Bay, but that study focused on a more conceptual approach and longer time frame for implementation than this current study which will evaluate more specific options and develop more refined implementation projects.

(132) Today's visitor to the San Francisco Bay area is never far away from the great recreational, scenic and working resource which is the Bay. From every hill, bridge or high-rise office building, the Bay is the focal point. Of the San Francisco work force of 570,000, some 130,000 commute into San Francisco each day for work over the Golden Gate and Bay Bridges, or on BART. An additional 3,500 commute by water over the Bay from Larkspur, Sausalita, Tiburon, Vallejo, Alameda and Oakland.

(133) Water transportation was the earliest mode used to cross San Francisco Bay. Rowboats, sailing craft and packets provided the first connections. Steam ferries appeared in 1847. Steamships bringing Gold Rush adventurers, such as the ''New World'', which arrived from New York in 1850, sailed in from the East Coast, and became part of the San Francisco Bay and river ferry system. ''New World'', used in Sacramento service, was eventually sold to Oregon, but returned finally to Vallejo, where she provided ferry service until she was dismantled in 1879. These steamers provided the links that connected the early mining and farming communities.

(134) Transbay ferry service began in 1850, with the establishment of a route between San Francisco and the Oakland Estuary, served by the ''Kangaroo''. In 1852, Oakland granted what was to be the first Bay ferry franchise to a ''reliable'' operator of a public ferry. Over the last century and a half, up to thirty major cross-bay ferries existed, serving 29 destinations. The great period of ferry transit reached its peak in the 1930's when 60 million persons crossed the bay annually, along with 6 million autos.

(135) The Ferry Building was the second busiest transportation terminal in the world in the early 1930s. Each day, some 250,000 persons travelled through the Ferry Building to work or other destinations. Ferries made approximately 170 landings a day at this time, and the Ferry Building was served by trolley lines which left every 20 seconds for city destinations. Ferries to Oakland could carry 4,000 persons, and were designed to incorporate restaurants, shoe shine parlors, and luxury surroundings, including mohair hangings, teak chairs, hammered copper lighting fixtures, and leather chairs in the ladies lounges. The highly efficient Key Route ferry/train transfer at the Oakland Mole enabled 9,000 commuters to load and unload in less than 20 minutes.

(136) As in most cities in the United States, the building of bridges and tunnels and the expansion of the use of the train and then the automobile led to the demise of ferry routes. These same cities are now dealing with the result of suburban development patterns—severe bridge, highway and tunnel congestion, and, in some cases, the need to provide alternate transportation routes during reconstruction of these aging structures. In San Francisco, for example, the Golden Gate Bridge, Highway and Transportation District, which the state created in 1923 to construct the Golden Gate Bridge, recognized 32 years after its completion that increasing bridge congestion suggested a need for a wider choice of modes. Studies in the early 1970s recommended establishing an integrated system of buses, ferries, and park-and-ride facilities in an attempt to delay the need for a more costly second deck, tunnel, or additional bridge.

(137) After a series of vessel and terminal modifications, Bridge District ferry service from Larkspur to San Francisco now carries about 4,000 passengers a day, and continues to grow. Buses meet the ferries on peak commuter runs, and serve 12 Marin County routes. District ferry service to Sausalito carries some 1,700 passengers daily, both commuters and tourists.

(138) East Bay ferry service to San Francisco ended in 1958. With the temporary resumption of Berkeley-San Francisco ferry service during the 1979 BART Transbay Tube closure, Harbor Bay Island demonstrations, and, more recently, service to Vallejo, supplemental post earthquake service, and continuing Alameda/Oakland service, East Bay water transit access to San Francisco is gradually being restored.

(139) Throughout the world, more passengers are transported by ferry each day than by air. In the United States, the two largest ferry systems, Washington State (50,000 passengers per day) and Staten Island (80,000 passengers per day) carry the bulk of United States' ferry commuters, even though there are over 275 separate ferry operations in the country. The ''Wall Street Journal'' estimated in a recent article that there were only 150,000 passengers travelling by ferry every day in the entire United States, which is equivalent to a day's ferry usage in the city of Lisbon, Portugal.

(140) Fast ferries (over 25 knots) have become key to successful ferry operations in many countries since World War II. Today, there are about 155 operators of fast ferries worldwide. (83) Of these, six are located in the United States. The three operators which provide commuter service (Washington State, Red & White Fleet, TNT) all use Incat catamarans. Because of US restrictions on foreign hulls, fast ferries have, with few exceptions, not been available for United States use. US manufacturers of fast vessels have chosen to focus on military applications with four exceptions: the Boeing Jetfoil (now only produced in Japan), glass-hulled planing craft, a demonstration Air Ride surface-effect vessel and the Incat catamaran of Australian design. Several US shipyards have licenses to build Scandinavian catamarans, British hovercraft and surface-effect vessels; these have not yet been constructed. New SWATH (small water area twin hull) craft in San Diego and Hawaii have generated interest in the marine community.

(141) During the 60's and 1970's, there were two high-speed ferry demonstrations on San Francisco Bay, utilizing a hydrofoil and an amphibious hovercraft. A year-long hovercraft demonstration served the Oakland and San Francisco Airports, and, according to the Port of Oakland's Air Cushion Vehicle Mass Transportation Demonstration Project Final Report' (April 1967), was favorably received passengers. According to the 1984 UMTA review 'Existing and Former High Speed Water-borne Transportation Operations in the United States', the service, which was ''the first use of hovercraft for a revenue service in the United States'' carried 12,510 passengers during the year, with an overall load factor of 27.3 percent. Wind gusts, wave height, and vessel reliability adversely affected the particular vessel used. Hydrofoil service was demonstrated by the FMC Corporation in the early 1970s as a potential market opportunity.

(142) Additionally, a short-term demonstration with a surface-effect craft was put into place by Harbor Bay Maritime in 1985 from Bay Farm Island (Alameda) to San Francisco. This rigid sidewall, air cushion Hovermarine vessel was built in England, and required a Jones Act waiver to operate between two points in the Bay. Like the hovercraft, the speed of the service was attractive to riders. However, ride comfort was not acceptable. Harbor Bay Maritime intends to initiate regular ferry service during 1991 with a fast planing monohull to connect Bay Farm Island with the San Francisco Ferry Building.

(143) San Francisco Bay today has a ferry fleet of approximately twenty-five vessels, with a passenger capacity of 10,500 persons. Speeds range from 25 knots provided by the catamarans, to 12 knots, the speed of the harbor tour vessels. Seven of these vessels provide commuter transportation, and the remainder provide transportation to recreational and tourist destinations, or are dedicated to charter work. Each year, about two million commuter trips are made on San Francisco Bay. There are about one million tourist trips to Alacatraz, Angel Island (180,000 visitors a year), Vallejo, Sausalito, Tiburon, Alameda and Oakland each year. It is estimated that there are about two million harbor tour and charter passengers as well.

(144) The Red & White Fleet has been the chief private provider of commuter service, and operates both non-subsidized routes to Sausalito and Tiburon, as well as subsidized services to Vallejo and to Alameda and Oakland in the East Bay. Red & White also runs ferries to Angel Island State Park, tour service to Alcatraz under an agreement with the National Park Service, and provides mid-day connections to Vallejo.

(145) Other passenger vessel operators in San Francisco Bay in 1991 include Blue and Gold, which carries 300,000 tour visitors a year, and Hornblower Dining Yachts, which provides dinner and charter cruises on San Francisco Bay. The Angel Island Ferry provides a short connection between Tiburon and the Island, and carries about half of the 180,000 visitors each year. The California Parks Department has purchased a new 48-passenger crew boat 'Ayala' to serve park functions between Tiburon and Angel Island. Finally, a small crew boat, based in Vallejo, is used to transport refinery workers to Pacific Refinery's terminal off Rodeo. Mare Island ferry service carried Shipyard workers between Vallejo and the Island until 1988.

(146) During the 1989 Loma Prieta Earthquake recovery period, Caltrans, the Metropolitan Transportation Commission, the City of Vallejo, and other East Bay communities participated in an extension of commuter ferry services. The Golden Gate District also augmented service from Marin County. From a normal situation, where 6,000 persons travel by ferry each day, ferries met a demand of 20,000 riders each day while the Bay Bridge was closed to automobiles. Although ferry service expanded by more than 300% while the Bay Bridge was closed, commuter numbers dropped shortly after the restoration of bridge service. Realizing that an attractive, dependable, reliable, stress-free transportation mode exists, public interest in cross-bay ferries has grown since the earthquake.

(147) Along the waterfront in San Francisco, the Port of San Francisco is exploring new maritime uses for its property, and directing investment of earthquake emergency monies (from the Federal Highway Administration and Caltrans) into initial improvements of the ferry landing at Pier 1/2. Oakland and Alameda are also using similar funds for terminal improvements. Recent passage of Proposition 116 will make $30 million available state-wide for investment in ferries and related infrastructure, with $10 million targeted to the Vallejo-San Francisco ferry link. Caltrans, under its Traffic Mitigation Program for the reconstruction of the Cypress Street freeway in Oakland, has designated monies for ferry marketing and terminal improvements in Alameda and Oakland.

(148) Key legislators and individuals, agencies, such as the Metropolitan Transportation Commission, Caltrans, and the Golden Gate Bridge, Highway, and Transportation District, and key communities, such as Alameda, Oakland and Vallejo, have moved the Bay Area towards restoration of a greater San Francisco Bay ferry network. In addition, state legislative interest in decreased

traffic congestion, regional interest in transit service coordination, and local efforts to promote waterfront development also contributed to desire for an overall ferry plan.

(149) The study team has conducted comprehensive interviews, reviewed existing studies, policies, and legislation from San Francisco Bay and appropriate sources outside the Bay Area, and participated in public meetings in order to build the background from which to view this project. A review of ferry experiences—both historical and current—has provided unique hands-on perspectives. Ferry captains who deal each day with channel siltation and debris, herring and other fishing activity, high speed ferry technology in action, and the dilemmas of mixing commuter and tourist traffic added valuable observations to the study. Ferry operators, who continue to refine the day-to-day management and operations issues, and ferry commuters, who have made a definite transit mode choice, and who recognize the benefits and shortcomings of existing services, offered suggestions for future ferry service as well. Public agency planners and decision-makers generously shared their own transit and environmental plans, polices and objectives.

(150) A roster of those interviewed during the course of the study is appended to this report. Additionally, a bibliography is appended which lists historical volumes, as well as ferry and transit studies from the Bay Area, and others which seem appropriate from other cities and countries. These reports and policies have been collected and reviewed by the study team, and cited where appropriate. Other ferry system goals and service standards, terminal and vessel designs, lessons learned, and government policies can be found among these reports. Bay Area ferry and transit schedules have been collected and are incorporated into the analyses. Federal transportation documents, ferry system analyses and agency standards, and transportation texts have also been reviewed for relevant criteria, and extensive commuter surveys have been undertaken for the Phase I analysis.

(151) This section includes goals and policies and evaluation criteria for ferry services operating in the San Francisco Bay Area. They have been created based on three primary sources: transportation and related goals by Bay Area regional agencies, counties and cities; goals and policies of ferry operations elsewhere; and the views of key informants expressed in interviews.

(152) A description of ferry operations elsewhere, and associated goals, objectives, and policies is contained in Appendix B. The lessons learned from these operations include the fact that there is no single approach to initiating new ferry service. Congestion relief and alternatives to new bridge construction have been successfully implemented goals for several services. Intermodal connections have also been important components. Appropriate and reliable vessels, attention to vessel access, and attention to environmental constraints, particularly wake restraints, have been important. Finally, in order to compete for scarce public subsidy funds for transit service, it is important to develop cost-effective and efficient operations.

(153) Summarizing the goals, ferries on San Francisco Bay will be considered where they offer the potential to: improve mobility; alleviate bridge and highway congestion; provide a cost-effective, flexible, dependable, comfortable, attractive and safe mode of transportation that helps the region to meet air quality, energy consumption, and accessibility goals; and enhance tourism, recreation and regional economic development.

(154) Goal 1. Enhance regional mobility and support regional planning policies.

Policy 1. Ferry services must enhance mobility in congested corridors and help meet goals of Congestion Management Plans.

Policy 2. Ferry services should reduce the number of vehicles entering San Francisco.

Policy 3. Ferry service projects must help achieve regional air quality and environmental goals.

Policy 4. Ferries must provide a seamless network of interconnecting regional services with other public transit and para-transit programs.

Policy 5. A set of core ferry facilities and equipment suitable for rapid expansion should be available if alternative modes become inoperable as a result of natural or man-made disasters.

Policy 6. Ferry service alternatives should be considered for vehicles transporting hazardous materials or other vehicles that reduce the efficiency of the regional highway network.

Policy 7. Ferry services should support bikeway programs.

(155) Goal 2. Create a transit option that is an attractive alternative to the automobile.

Policy 1. Ferry service must be competitive with the automobile in travel time, cost, reliability and comfort.

Policy 2. Schedules, intermodal facilities, fare policy, and marketing must be oriented to provide a single integrated system.

Policy 3. A ferry system should provide an amenity and comfort level that win attract commuters, off-peak and weekend riders, and new riders unfamiliar with water transportation.

Policy 4. Ferry services should increase public access to recreational destinations.

Policy 5. Ferry and terminal concessions which enhance the ferry experience should be provided.

(156) Goal 3. Offer a transit option that can be initiated in a timely, environmentally benign, and cost effective manner.

Policy 1. Ferry vessels to be acquired for the Bay Area must be cost-effective and represent proven technology.

Policy 2. Public/private partnerships should be utilized, maintaining the most cost-effective role for each sector.

Policy 3. Terminals must be functional, attractive and cost-effective, while providing shelter, amenities, efficient access and egress, and adequate intermodal connections.

Policy 4. Improvements should be developed incremental as required to meet ridership.

Policy 5. Ferry service should be expanded within the institutional framework of agencies that now exist.

Policy 6. The application/permit process for new ferry services should be simplified and coordinated by a single agency.

Policy 7. Ferry services must complement the navigational waterways of the Bay, reflecting draft, wake, speed, and harbor traffic constraints.

(157) Goal 4. Provide transit service that operates efficiently and reduces the need for high cost alternative transportation investments.

Policy 1. Ferry transit should be implemented to reduce or delay the need for high capital cost highway and transit projects where the projected fare box recovery ratio and subsidy per passenger indicate fiscal benefits.

Policy 2. Vessels selected should be of appropriate size and speed to meet the need, and of sufficient number to provide the desired schedule frequency.

Policy 3. Competitive bidding should be used to procure and operate boats efficiently.

Policy 4. Joint purchasing, service interlining, recreational sub-lets, and joint use of spare equipment should be utilized to reduce system cost.

Policy 5. Local financial and in-kind support should be required for new and continuing ferry services.

(158) Goal 5. Provide ferry service that is reliable, safe, and fully accessible.

Policy 1. Require vessels of proven reliability and terminals compatible with the vessels.

Policy 2. Vessels must meet or exceed all Coast Guard safety requirements.

Policy 3. All terminals and vessels should meet all state and federal accessibility standards.

(159) Goal 6. Develop terminals that are consistent with local and regional plan.

Policy 1. Terminals must meet the requirements of the BCDC Plan, the Corps of Army Engineers permitting procedures, the Bikeways Program, transit coordination objectives, and accessibility standards.

Policy 2. Terminals must support local planning, economic development, tourism, regional marketing, environmental and design objectives.

Policy 3. Terminals should be developed as local (and regional where appropriate) transit hubs.

(160) It is important to have a set of criteria in place for two purposes. First, criteria are essential for the evaluation of competing proposals for ferry service, where operating and capital fund are limited. Second, the criteria are important for the evaluation of ferry service as a temporary or permanent alternative to other transportation investments such as building a new bridge, widening a freeway, or building an alternative transit project. This list of criteria can also act as a checklist for consideration when ferries are proposed as traffic mitigation or emergency service providers. Criteria are categorized into the following categories:

—Mobility/Performance
—Energy and Environment
—Socio-economic
—Financial
—Service
—Ease of Implementation

(b) of the funds appropriated under the heading ''Federal-Aid Highways'', $5,000,000 shall be made available to carry out section 1207(c)(1) of Public Law 105–178.''

AMENDMENT NO. 950

Page 91, strike lines 10–12, and insert:

''This Act may be cited as the 'No TEA for Two Department of Transportation and Related Appropriations Act, 2000' ''.

AMENDMENT NO. 951

At the appropriate place in title III, insert the following:

SEC. 3___. TRANSFER OF MOTOR CARRIER SAFETY FUNCTIONS FROM THE FEDERAL HIGHWAY ADMINISTRATION TO THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

(a) TRANSFER OF FUNCTIONS FROM FEDERAL HIGHWAY ADMINISTRATION.—Section 104(c) of title 49, United States Code, is amended—

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

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) TRANSFER OF FUNCTIONS TO NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.—Section 105(c) of title 49, United States Code, is amended—

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

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315; and''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

(2) ACTIONS BY THE SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may take such action as may be necessary to ensure the orderly transfer of the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code, and employees carrying out such duties and power, from the Federal Highway Administration to the National Highway Traffic Safety Administration.

SCHUMER AMENDMENTS NOS. 952–1036

(Ordered to lie on the table.)

Mr. SCHUMER submitted 85 amendments intended to be proposed by him to the bill, S. 1143, supra; as follows:

AMENDMENT NO. 952

On page 31, line 3, strike ''$29,500,000'' and insert ''$28,000,000''.

On page 31, line 25, strike ''$1,500,000'' and insert ''$3,000,000''.

AMENDMENT NO. 953

On page 27, line 9, strike ''$1,000,000'' and insert ''$999,000''.

On page 27, line 21, strike ''$22,364,000'' and insert ''$22,365,000''.

AMENDMENT NO. 954

On page 17, line 23, strike ''$370,000,000'' and insert ''$365,500,000''.

On page 31, line 12, strike ''$1,000,000'' and insert ''$1,500,000''.

AMENDMENT NO. 955

On page 17, line 23, strike ''$370,000,000'' and insert ''$363,000,000''.

On page 30, line 17, strike ''$21,000,000'' and insert ''$27,000,000''.

AMENDMENT NO. 956

On page 17, line 23, strike ''$370,000,000'' and insert ''$350,000,000''.

On page 33, line 2, strike ''$60,000,000'' and insert ''$80,000,000''.

AMENDMENT NO. 957

On page 17, line 23, strike ''$370,000,000'' and insert ''$368,250,000''.

On page 30, line 20, strike ''$5,250,000'' and insert ''$7,000,000''.

AMENDMENT NO. 958

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,800,000''.

On page 33, line 4, strike ''$1,960,800,000'' and insert ''$1,961,000,000''.

AMENDMENT NO. 959

On page 17, line 23, strike ''$370,000,000'' and insert ''$368,600,000''.

On page 30, line 21, strike ''$4,000,000'' and insert ''$5,400,000''.

AMENDMENT NO. 960

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,990,000''.

On page 33, line 12, strike ''$2,451,000,000'' and insert ''$2,461,000,000''.

AMENDMENT NO. 961

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,789,000''.

On page 26, line 14, strike ''$91,789,000'' and insert ''$92,000,000''.

AMENDMENT NO. 962

On page 17, line 23, strike ''$370,000,000'' and insert ''$364,500,000''.

On page 28, line 19, strike ''$20,500,000'' and insert ''$26,000,000''.

AMENDMENT NO. 963

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,232,000''.

On page 30, line 25, strike ''$49,632,000'' and insert ''$50,400,000''.

AMENDMENT NO. 964

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,100,000''.

On page 31, line 10, strike ''$1,500,000'' and insert ''$2,400,000''.

AMENDMENT NO. 965

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,600,000''.

On page 31, line 12, strike ''$1,000,000'' and insert ''$1,400,000''.

AMENDMENT NO. 966

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,850,000''.

On page 31, line 15, strike ''$250,000'' and insert ''$400,000''.

AMENDMENT NO. 967

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,000,000''.

On page 31, line 17, strike ''$3,000,000'' and insert ''$4,000,000''.

AMENDMENT NO. 968

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,000,000''.

On page 31, line 18, strike ''$3,000,000'' and insert ''$4,000,000''.

AMENDMENT NO. 969

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,000,000''.

On page 31, between lines 12 and 13, insert the following:

''New York, bus and garage equipment, $1,000,000;''.

AMENDMENT NO. 970

On page 17, line 23, strike ''$370,000,000'' and insert ''$354,000,000''.

On page 29, between lines 8 and 9, insert the following:

STATEN ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a connection between the Staten Island Railroad and the Chemical Coast Line in Union County, New Jersey, $16,000,000, to remain available until expended: *Provided*, That the Port Authority of New York and New Jersey (or a designee thereof) shall provide matching funds from non-Federal sources on a dollar-for-dollar basis.

AMENDMENT NO. 971

On page 28, line 20, insert before the period the following: '', of which $250,000 shall be provided to the State of New York for a High Speed Rail Program Land Access Study''.

AMENDMENT NO. 972

On page 28, line 20, insert before the period the following: '', of which $250,000 shall be made available to the State of New York for the Empire Corridor Advanced Train Control''.

AMENDMENT NO. 973

On page 28, line 20, insert before the period the following: '', of which $5,750,000 shall be made available to the State of New York for the Empire Corridor High Speed Safety Program''.

AMENDMENT NO. 974

On page 17, line 23, strike ''$370,000,000'' and insert ''$355,000,000''.

On page 31, line 20, strike ''$5,000,000'' and insert ''$20,000,000''.

AMENDMENT NO. 975

On page 17, line 23, strike ''$370,000,000'' and insert ''$369,700,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Rochester ITS Evaluation and Integration Initiative, NY	300,000

AMENDMENT NO. 976

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Statewide ITS Deployment, NY	4,000,000

AMENDMENT NO. 977

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,200,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Lower Hudson Multi-Operator Transit Communications Standards Implementation, NY	3,800,000

AMENDMENT NO. 978

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Rural Transit Automated Vehicle Location System Network, NY	4,000,000

AMENDMENT NO. 979

On page 17, line 23, strike ''$370,000,000'' and insert ''$360,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Capital District Regional Traffic Signal System Improvements, NY	10,000,000

AMENDMENT NO. 980

On page 17, line 23, strike ''$370,000,000'' and insert ''$367,500,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Hudson Line High Speed Smart Rail/Highway Crossings	2,500,000

AMENDMENT NO. 981

On page 17, line 23, strike ''$370,000,000'' and insert ''$365,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

FDR Drive Traffic Management System	5,000,000

AMENDMENT NO. 982

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

System Integration of Subregional ITS in New York City	4,000,000

AMENDMENT NO. 983

On page 17, line 23, strike ''$370,000,000'' and insert ''$365,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Cross Westchester Expressway Advanced Transportation Management System, Westchester County	5,000,000

AMENDMENT NO. 984

On page 17, line 23, strike ''$370,000,000'' and insert ''$367,500,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Long Island Railroad Intelligent Grade Crossing Expansion	2,500,000

AMENDMENT NO. 985

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Capital District Smart Transit System, NY	4,000,000

AMENDMENT NO. 986

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

New York State-Rural Transit Automated Vehicle Location System Network	4,000,000

AMENDMENT NO. 987

On page 17, line 23, strike ''$370,000,000'' and insert ''$368,500,000''.

On page 21, in the table preceding line 1, and insert the following:

State of New York	1,500,000

AMENDMENT NO. 988

On page 17, line 23, strike ''$370,000,000'' and insert ''$368,000,000''.

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Monroe County traffic operations center, NY	2,000,000

AMENDMENT NO. 989

On page 17, line 23, strike ''$370,000,000'' and insert ''$366,000,000

On page 21, in the table preceding line 1, insert before the item relating to ''Kansas City, MO'' the following:

Statewide ITS Urban Integration, NY	4,000,000

AMENDMENT NO. 990

On page 48, between lines 8 and 9, insert the following:

''Oneida County buses for bus consortium, New York''.

AMENDMENT NO. 991

On page 44, between lines 10 and 11, insert the following:

''Long Beach Central Bus Facility, New York''.

AMENDMENT NO. 992

On page 48, between lines 8 and 9, insert the following:

''Oneida County bus facilities, New York''.

AMENDMENT NO. 993

On page 50, between lines 8 and 9, insert the following:

''Rochester alternative fuel buses, New York''.

AMENDMENT NO. 994

On page 50, between lines 8 and 9, insert the following:

''Rochester Central Bus Facility, New York''.

AMENDMENT NO. 995

On page 52, between lines 24 and 25, insert the following:

''Staten Island Rapid Transit Demonstration, New York''.

AMENDMENT NO. 996

On page 53, between lines 2 and 3, insert the following:

''Suffolk County Automated Vehicle Locator System, New York''.

AMENDMENT NO. 997

On page 53, between lines 2 and 3, insert the following:

''Sullivan County coordinated public transportation, New York''.

AMENDMENT NO. 998

On page 53, between lines 11 and 12, insert the following:

''Tompkins County Transit Center, New York''.

AMENDMENT NO. 999

On page 53, between lines 15 and 16, insert the following:

''Town of Huntington paratransit vehicles, New York''.

AMENDMENT NO. 1000

On page 34, between lines 11 and 12, insert the following:

''Albany Paratransit Bus Facility and replacement vehicles, New York''.

AMENDMENT NO. 1001

On page 58, between lines 8 and 9, insert the following:

''Poughkeepsie Intermodal Project, New York''.

AMENDMENT NO. 1002

On page 54, between lines 24 and 25, insert the following:

''Westchester County, replace 40 commuter coaches, New York''.

AMENDMENT NO. 1003

On page 55, between lines 11 and 12, insert the following:

''Yonkers Intermodal Center, New York''.

AMENDMENT NO. 1004

On page 36, between lines 16 and 17, insert the following:

''Broome County, buses and related equipment, New York''.

AMENDMENT NO. 1005

On page 80, strike lines 1 through 11 and insert the following:

SEC. 321. MAXIMUM HIGHWAY APPORTIONMENT TO EACH STATE.

(a) DEFINITION OF STATE.—In this section, the term ''State'' means any of the 50 States and the District of Columbia.

(b) IN GENERAL.—Notwithstanding any other provision of law, no State shall receive more than $120 per capita of the total budget resources made available by this Act to carry out sections 103(b), 105, 119, 133, 144, and 149 of title 23, United States Code.

(c) REDISTRIBUTION OF BUDGET RESOURCES.—The amount of funds made available by application of subsection (b) shall be redistributed equally among the States.

(d) AFFECTED APPORTIONMENTS.—Reductions and increases required under subsections (b) and (c) shall be made only to the formula apportionments under the sections referred to in subsection (b).

AMENDMENT NO. 1006

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. REPEAL OF GUARANTEE OF 90.5 PERCENT RETURN.

Section 105 of title 23, United States Code, is amended by striking subsection (f).

AMENDMENT NO. 1007

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. TERMINATION OF AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Section 9502 of the Internal Revenue Code of 1986 (relating to the Airport and Airway Trust Fund) is repealed.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 9503(b) is repealed.

(c) EFFECTIVE DATE.—The repeals made by this section take effect on October 1, 1999.

AMENDMENT NO. 1008

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. TERMINATION OF HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 (relating to the Highway Trust Fund) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) takes effect on October 1, 1999.

AMENDMENT NO. 1009

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. TERMINATION OF EXCISE TAX ON HIGHWAY MOTOR FUELS.

(a) IN GENERAL.—Section 4041 (other than subsections (c) and (d)(2)) and subpart A of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1986 (relating to special fuels and gasoline) are repealed.

(b) EFFECTIVE DATE.—The repeals made by subsection (a) take effect on October 1, 1999.

AMENDMENT NO. 1010

On page 91, between lines 9 and 10, insert the following:

SEC. 3___. TERMINATION OF EXCISE TAX ON AVIATION FUELS.

(a) IN GENERAL.—Subections (c) and (d)(2) of section 4041 and subpart B of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1986 (relating to aviation fuels) are repealed.

(b) EFFECTIVE DATE.—The repeals made by subsection (a) take effect on October 1, 1999.

AMENDMENT NO. 1011

On page 80, strike lines 1 through 11 and insert the following:

SEC. 321. SURFACE TRANSPORTATION.

(a) HIGH PRIORITY PROJECTS FLEXIBILITY.—Section 117 of title 23, United States Code, is amended by adding at the end the following:

''(i) USE OF OTHER FUNDS.—

''(1) IN GENERAL.—

''(A) PROJECTS ELIGIBLE FOR APPORTIONED FUNDS.—A State may use for a project under this section any funds apportioned under this title for which the project is eligible.

''(B) PROJECTS NOT ELIGIBLE FOR APPORTIONED FUNDS.—If a project under this section is not eligible for funds apportioned under this title, a State may use for the project funds apportioned to the State under section 104(b)(3), other than funds set aside or suballocated under section 133(d).

''(2) REIMBURSEMENT.—Apportioned funds used under paragraph (1) shall be reimbursed from amounts allocated for the project under this section in an amount equal to the amount used under paragraph (1), but not to exceed the total of the amounts allocated for the project under this section.''.

(b) FUNDING FLEXIBILITY AND HIGH SPEED RAIL CORRIDORS.—

(1) ELIGIBILITY OF PASSENGER RAIL FOR HIGHWAY FUNDING.—

(A) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

''(Q) Acquisition, construction, reconstruction, and rehabilitation of, and preventative maintenance for, intercity rail passenger facilities and rolling stock.''.

(B) SURFACE TRANSPORTATION PROGRAM.—Section 133(b)(2) of title 23, United States Code, is amended by inserting before the period at the end the following: '', rail, or a combination of bus and rail''.

(C) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(i) in paragraph (4), by striking ''or'' at the end;

(ii) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

''(6) if the project or program will have air quality benefits through acquisition, construction, reconstruction, and rehabilitation of, and preventative maintenance for, intercity rail passenger facilities and rolling stock.''.

(2) TRANSFER OF HIGHWAY AND TRANSIT FUNDS TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Section 104(k) of title 23, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4);

(B) by inserting after paragraph (2) the following:

''(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.''; and

(C) in paragraph (4) (as redesignated by subparagraph (A)), by striking ''paragraphs (1) and (2)'' and inserting ''paragraphs (1) through (3)''.

(c) HISTORIC BRIDGES.—Section 144(o) of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by inserting ''amount of'' before ''costs eligible''; and

(B) by striking ''subsection shall not'' and inserting ''subsection that are funded with funds made available to carry out this section shall not''; and

(2) in paragraph (4)—

(A) in the second sentence, by striking ''up to an amount not to'' and inserting '', except that the amount of reimbursable project costs that are funded with funds made available to carry out this section shall not''; and

(B) in the last sentence, by striking ''title'' and inserting ''section''.

(d) ACCOUNTING SIMPLIFICATION.—Section 1102(c)(4) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended by striking ''$2,000,000,000'' each place it appears and inserting ''$2,161,000,000''.

AMENDMENT NO. 1012

Beginning on page 80, strike line 14 and all that follows through page 81, line 2, and insert the following:

(1) by striking the section heading and inserting the following:

''SEC. 3021. PILOT PROGRAM FOR INTERCITY PASSENGER RAIL SERVICE FUNDED FROM HIGHWAY TRUST FUND (OTHER THAN MASS TRANSIT ACCOUNT).'';

(2) in subsection (a)—

(A) by striking the first sentence and inserting ''The Secretary shall establish a pilot program to determine the benefits of allowing States to use funds from the Highway Trust Fund (other than the Mass Transit Account) for intercity passenger rail service.''; and

(B) in the second sentence, by striking ''Any'' and all that follows through ''United States Code'' and inserting ''The funds made available to the State of Oklahoma and the State of Vermont to carry out sections 5307 and 5311 of title 49, United States Code, and sections 133 and 149 of title 23, United States Code'';

(3) in subsection (b)(1), by striking ''the Committee on Banking, Housing, and Urban Affairs'' and inserting ''the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation''; and

(4) by adding at the end the following:

AMENDMENT NO. 1013

On page 69, strike lines 14 through 18.

AMENDMENT NO. 1014

On page 91, insert the following new section:

''SEC. . (a) None of the funds make available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

AMENDMENT NO. 1015

On page 91, insert the following new section:

SEC. . (a) FINDINGS.—Congress finds that—

(1) the serious ground level ozone, noise, water pollution, and solid waste disposal problems attendant to airport operations require a thorough evaluation of all significant sources of pollution;

(2) the Clean Air Act (42 U.S.C. 7401 et seq.)—

(A) requires each State to reduce emissions contributing to ground level ozone problems and maintain those reductions; and

(B) requires the Administrator of the Environmental Protection Agency to study, in addition to other sources, the effects of sporadic, extreme noise (such as jet noise near airports) on public health and welfare;

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) establishes a regulatory and enforcement program for discharges of wastes into water;

(4) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) establishes primary drinking water standards and a ground water control program;

(5) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) regulates management and disposal of solid and hazardous waste;

(6) a study of air pollution problems in California—

(A) has determined that airports are significant sources of air pollution; and

(B) has led to the creation of an airport bubble concept; and

(7) the airport bubble concept is an approach that—

(A) treats an airport and the area within a specific radius around the airport as a single source of pollution that emits a range of pollutants, including air, noise, water, and solid waste; and

(B) seeks, by implementation of specific programs or regulations, to reduce the pollution from each source within the bubble and thereby reduce the overall pollution in that area.

(b) PURPOSE.—The purpose of this Act is to require the Administrator to conduct—

(1) a feasibility study for applying airport bubbles to airports as a method of assessing and reducing, where appropriate, air, noise, water, and solid waste pollution in and around the airports and improving overall environmental quality; and

(2) a study of air pollutant emission standards established by the Environmental Protection Agency for airplane engines to determine whether it is feasible and desirable to strengthen the standards.

SEC. .DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AIRPORT BUBBLE.—The term ''airport bubble'' means an area—

(A) in and around an airport (or other facility using aircraft) within which sources of pollution and levels of pollution from those sources are to be identified and reduced; and

(B) containing a variety of types of air, noise, water, and solid waste sources of pollution in which the aggregate of each type of pollutant from the respective sources is regulated as if the various sources were a single source.

SEC. . STUDY OF USING AIRPORT BUBBLES.

(a) IN GENERAL.—The Administrator shall conduct a study to determine the feasibility of regulating air, noise, water, and solid waste pollution from all sources in and around airports using airport bubbles.

(b) WORKING GROUP.—In conducting the study, the Administrator shall establish and consult with a working group comprised of—

(1) the Administrator of the Federal Aviation Administration (or a designee);

(2) the Secretary of Defense (or a designee);

(3) the Secretary of Transportation (or a designee);

(4) a representative of air quality districts;

(5) a representative of environmental research groups;

(6) a representative of State Audubon Societies;

(7) a representative of the Sierra Club;

(8) a representative of the Nature Conservancy;

(9) a representative of port authorities of States;

(10) an airport manager;

(11) a representative of commanding officers of military air bases and stations;

(12) a representative of the bus lines that serve airports who is familiar with the emissions testing and repair records of those buses, the schedules of those lines, and any problems with delays in service caused by traffic congestion;

(13) a representative of the taxis and limousines that serve airports who is familiar with the emissions testing and repair records of the taxis and limousines and the volume of business generated by the taxis and limousines;

(14) a representative of local law enforcement agencies or other entities responsible for traffic conditions in and around airports;

(15) a representative of the Air Transport Association;

(16) a representative of the Airports Council International-North America;

(17) a representative of environmental specialists from airport authorities; and

(18) a representative from an aviation union representing ground crews.

(c) REQUIRED ELEMENTS.—In conducting the study, the Administrator shall—

(1) collect, analyze, and consider information on the variety of stationary and mobile sources of air, noise, water, and solid waste pollution within airport bubbles around airports in the United States, including—

(A) aircraft, vehicles, and equipment that service aircraft (including main and auxiliary engines); and

(B) buses, taxis, and limousines that serve airports;

(2) study a statistically significant number of airports serving commercial aviation in a manner designed to obtain a representative sampling of such airports;

(3) consider all relevant information that is available, including State implementation plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and airport master plans;

(4) consider the air quality implications of airport and ground and in-flight aircraft operations, such as routing and delays;

(5) assess the role of airports in interstate and international travel and commerce and the environmental and economic impact of regulating airports as significant sources of air, noise, water, and solid waste pollution;

(6) propose boundaries of the areas to be included within airport bubbles;

(7) propose a definition of air pollutant emissions for airport bubbles that includes hydrocarbons, volatile organic compounds, and other ozone precursors targeted for reduction under Federal air pollution law;

(8) develop an inventory of each source of air, noise, water, and solid waste pollution to be regulated within airport bubbles and the level of reduction for each source;

(9) list and evaluate programs that might be implemented to reduce air, noise, water, and solid waste pollution within airport bubbles and the environmental and economic impact of each of the programs, including any changes to Federal or State law (including regulations) that would be required for implementation of each of the programs;

(10) evaluate the feasibility of regulating air, noise, water, and solid waste pollutants in and around airports using airport bubbles and make recommendations regarding which programs should be included in an effective implementation of airport bubble methodology; and

(11) address the issues of air and noise pollution source identification and regulation that are unique to military air bases and stations.

(d) Report.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results and recommendations of the study required by this section.

SEC. . STUDY OF EMISSION STANDARDS FOR AIRPLANE ENGINES.

(a) In general.—The Administrator shall conduct a study of air pollutant emission standards established by the Environmental protection Agency for airplane engines to determine whether it is feasible and desirable to strengthen the standards.

(b) Report.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results and recommendations of the study required by this section.

SEC. . PROGRESS REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter until the reports under sections 4 and 5 are submitted, the Administrator shall submit to Congress a report that details the progress being made by the Administrator in carrying out sections 4 and 5.

SEC. . REPORTING OF TOXIC CHEMICAL RELEASES.

(a) In general.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate regulations requiring each airport that regularly serves commercial or military jet aircraft to report, under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. 13106), releases and other waste management activities associated with the manufacturing, processing, or other use of toxic chemicals listed under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023), including toxic chemicals manufactured, processed, or otherwise used—

(1) during operation and maintenance of aircraft and other motor vehicles at the airport; and

(2) in the course of other airport and airline activities.

(b) Treatment as a facility.—For the purpose of subsection (a), an airport shall be considered to be a facility as defined in section 329 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11049).

SEC. . FUNDING.

The Administrator shall carry out this Act using existing funds available to the Administrator.

AMENDMENT NO. 1016

On page 82, line 22, strike ''$200'' and insert ''$90''.

AMENDMENT NO. 1017

On page 82, line 22, strike ''$200'' and insert ''$100''.

AMENDMENT NO. 1018

On page 82, line 20, strike ''70'' and insert ''60''.

AMENDMENT NO. 1019

On page 82, line 20, strike ''70'' and insert ''300''.

AMENDMENT NO. 1020

On page 82, line 22, strike ''$200'' and insert ''$140''.

AMENDMENT NO. 1021

On page 17, line 23, strike ''$370,000,000'' and insert ''$341,000,000''.

On page 29, line 13, strike ''$571,000,000'' and insert ''$600,000,000''.

AMENDMENT NO. 1022

On page 69, line 9, strike ''100'' and insert ''115''.

AMENDMENT NO. 1023

On page 18, line 24, after ''Code:'', insert the following: ''*Provided further,* That none of the funds appropriated by this Act may be obligated or expended to fund the Office of Highway Policy Information:''.

AMENDMENT NO. 1024

On page 34, line 1, insert after ''Appropriations'' the following: '', the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives''.

AMENDMENT NO. 1025

On page 55, line 20, insert after ''tions'' the following: '', the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives''.

AMENDMENT NO. 1026

On page 84, line 14, before the period, insert the following: '', the Committee on Banking, Housing, and Urban Affairs and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives''.

AMENDMENT NO. 1027

On page 27, strike lines 17 and 18 and insert the following:

proved by the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee Appropriations and the Committee on Transportation and Infrastructure of the House of Representatives.

AMENDMENT NO. 1028

On page 27, line 16, strike ''10 percent'' and insert ''85 percent''.

AMENDMENT NO. 1029

On page 35, strike line 25.

AMENDMENT NO. 1030

On page 35, strike lines 15 and 16.

AMENDMENT NO. 1031

On page 34, strike line 7.

AMENDMENT NO. 1032

On page 91, insert the following new section:

SEC. .

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DANIEL PATRICK MOYNIHAN STATION.

The Amtrak station to be constructed in the James A. Farley Post Office Building in New York, New York, shall be known and designated as the ''Daniel Patrick Moynihan Station''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the

United States to the Amtrak station referred to in section 1 shall be deemed to be a reference to the ''Daniel Patrick Moynihan Station''.

AMENDMENT NO. 1033

On page 91, insert the following new section:

SEC. .

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Acid Deposition and Ozone Control Act''.

SEC. 2. FINDINGS AND PURPOSES.

(A) FINDINGS.—Congress finds that—

(1) reductions of atmospheric nitrogen oxide and sulfur dioxide from utility plants, in addition to the reductions required under the Clean Air Act (42 U.S.C. 7401 et seq.), are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, building structures, sensitive ecosystems, and visibility;

(2) nitrogen oxide and sulfur dioxide contribute to the development of fine particulates, suspected of causing human mortality and morbidity to a significant extent;

(3) regional nitrogen oxide reductions of 50 percent in the Eastern United States, in addition to the reductions required under the Clean Air Act, may be necessary to protect sensitive watersheds from the effects of nitrogen deposition;

(4) without reductions in nitrogen oxide and sulfur dioxide, the number of acidic lakes in the Adirondacks in the State of New York is expected to increase by up to 40 percent by 2040; and

(5) nitrogen oxide is highly mobile and can lead to ozone formation hundreds of miles from the emitting source.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the current scientific understanding that emissions of nitrogen oxide and sulfur dioxide, and the acid deposition resulting from emissions of nitrogen oxide and sulfur dioxide, present a substantial human health and environmental risk;

(2) to require reductions in nitrogen oxide and sulfur dioxide emissions;

(3) to support the efforts of the Ozone Transport Assessment Group to reduce ozone pollution;

(4) to reduce utility emissions of nitrogen oxide by 70 percent from 1990 levels; and

(5) to reduce utility emissions of sulfur dioxide by 50 percent after the implementation of phase II sulfur dioxide requirements under section 405 of the Clean Air Act (42 U.S.C. 7651d).

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AFFECTED FACILITY.—The term ''affected facility'' means a facility with 1 or more combustion units that serve at least 1 electricity generator with a capacity equal to or greater than 25 megawatts.

(3) NO_X ALLOWANCE.—The term ''NO_X allowance'' means a limited authorization under section 4(3) to emit, in accordance with this Act, quantities of nitrogen oxide.

(4) MMBTU—The term ''mmBtu'' means 1,000,000 British thermal units.

(5) PROGRAM.—The term ''Program'' means the Nitrogen Oxide Allowance Program established under section 4.

(6) STATE.—The term ''State'' means the 48 contiguous States and the District of Columbia.

SEC. 4. NITROGEN OXIDE ALLOWANCE PROGRAM.

(A) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall establish a program to be known as the ''Nitrogen Oxide Allowance Program''.

(2) SCOPE.—The Program shall be conducted in the 48 contiguous States and the District of Columbia.

(3) NO_X ALLOWANCES.—

(A) ALLOCATION.—The Administrator shall allocate under paragraph (4)—

(i) for each of calendar years 2002 through 2004, 5,400,000 NO_X allowances; and

(ii) for calendar year 2005 and each calendar year thereafter, 3,000,000 NO_X allowances.

(B) USE.—Each NO_X allowance shall authorize an affected facility to emit—

(i) 1 ton of nitrogen oxide during each of the months of October, November, December, January, February, March, and April of any year; or

(ii) ½ ton of nitrogen oxide during each of the months of May, June, July, August, and September of any year.

(4) ALLOCATION.—

(A) DEFINITION OF TOTAL ELECTRIC POWER.—In this paragraph, the term ''total electric power'' means all electric power generated by utility and nonutility generators for distribution, including electricity generated from solar, wind, hydro power, nuclear power, cogeneration facilities, and the combustion of fossil fuel.

(B) ALLOCATION OF ALLOWANCES.—The Administrator shall allocate annual NO_X allowances to each of the States in proportion to the State's share of the total electric power generated in all of the States.

(C) PUBLICATION.—The Administrator shall publish in the Federal Register a list of each State's NO_X allowance allocation—

(i) by December 1, 2000, for calendar years 2002 through 2004;

(ii) by December 1, 2002, for calendar years 2005 through 2007; and

(iii) by December 1 of each calendar year after 2002, for the calendar year that begins 61 months thereafter.

(5) INTRASTATE DISTRIBUTION.—

(A) IN GENERAL.—A State may submit to the Administrator a report detailing the distribution of NO_X allowances of the State to affected facilities in the State—

(i) not later than September 30, 2001, for calendar years 2002 through 2004;

(ii) not later than September 30, 2003, for calendar years 2005 through 2012; and

(iii) not later than September 30 of each calendar year after 2013, for the calendar year that begins 61 months thereafter.

(B) ACTION BY THE ADMINISTRATOR.—If a State submits a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall distribute the NO_X allowances to affected facilities in the State as detailed in the report.

(C) LATE SUBMISSION OF REPORT.—A report submitted by a State after September 30 of a specified year shall be of no effect.

(D) DISTRIBUTION IN ABSENCE OF A REPORT.—

(i) IN GENERAL.—Subject to subsection (e), if a State does not submit a report under subparagraph (A) not later than September 30 of the calendar year specified in subparagraph (A), the Administrator shall, not later than November 30 of that calendar year, distribute the NO_X allowances for the calendar years specified in subparagraph (A) to each affected facility in the State in proportion to the affected facility's share of the total electric power generated in the State.

(ii) DETERMINATION OF FACILITY'S SHARE.—In determining an affected facility's share of total electric power generated in a State, the Administrator shall consider the net electric power generated by the facility and the State to be—

(I) for calendar years 2002 through 2004, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1997 through 1999;

(II) for calendar years 2005 through 2012, the average annual amount of electric power generated, by the facility and the State, respectively, in calendar years 1999 through 2001; and

(III) for calendar year 2013 and each calendar year thereafter, the amount of electric power generated, by the facility and the State, respectively, in the calendar year 5 years previous to the year for which the determination is made.

(E) JUDICIAL REVIEW.—A distribution of NO_X allowances by the Administrator under subparagraph (D) shall not be subject to judicial review.

(b) NO_X ALLOWANCE TRANSFER SYSTEM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate a NO_X allowance system regulation under which a NO_X allowance allocated under this Act may be transferred among affected facilities and any other person.

(2) ESTABLISHMENT.—The regulation shall establish the NO_X allowance system under this section, including requirements for the allocation, transfer, and use of NO_X allowances under this Act.

(3) USE OF NO_X ALLOWANCES.—The regulation shall—

(A) prohibit the use (but not the transfer in accordance with paragraph (5)) of any NO_X allowance before the calendar year for which the NO_X allowance is allocated; and

(B) provide that the unused NO_X allowances shall be carried forward and added to NO_X allowances allocated for subsequent years.

(4) CERTIFICATION OF TRANSFER.—A transfer of a NO_X allowance shall not be effective until a written certification of the transfer, signed by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(c) NO_X ALLOWANCE TRACKING SYSTEM.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations for issuing, recording, and tracking the use and transfer of NO_X allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the NO_X allowance system.

(d) PERMIT REQUIREMENTS.—A NO_X allowance allocation or transfer shall, on recordation by the Administrator, be considered to be a part of each affected facility's operating permit requirements, without a requirement for any further permit review or revision.

(e) NEW SOURCE RESERVE.—

(1) IN GENERAL.—For a State for which the Administrator distributes NO_X allowances under subsection (a)(5)(D), the Administrator shall place 10 percent of the total annual NO_X allowances of the State in a new source reserve to be distributed by the Administrator—

(A) for calendar years 2002 through 2005, to sources that commence operation after 1998;

(B) for calendar years 2006 through 2011, to sources that commence operation after 2000; and

(C) for calendar year 2012 and each calendar year thereafter, to sources that commence operation after the calendar year that is 5 years previous to the year for which the distribution is made.

(2) SHARE.—For a State for which the Administrator distributes NO_X allowances under subsection (a)(5)(D), the Administrator shall distribute to each new source a number of NO_X allowances sufficient to allow emissions by the source at a rate equal to the lesser of the new source performance standard or the permitted level for the full nameplate capacity of the source, adjusted pro

rata for the number of months of the year during which the source operates.

(3) UNUSED NO_X ALLOWANCES.—

(A) IN GENERAL.—During the period of calendar years 2000 through 2005, the Administrator shall conduct auctions at which a NO_X allowance remaining in the new source reserve that has not been distributed under paragraph (2) shall be offered for sale.

(B) OPEN AUCTIONS.—An auction under subparagraph (A) shall be open to any person.

(C) CONDUCT OF AUCTION.—

(i) METHOD OF BIDDING.—A person wishing to bid for a NO_X allowance at an auction under subparagraph (A) shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) an offer to purchase a specified number of NO_X allowances at a specified price.

(ii) SALE BASED ON BID PRICE.—A NO_X allowance auctioned under subparagraph (A) shall be sold on the basis of bid price, starting with the highest priced bid and continuing until all NO_X allowances for sale at the auction have been sold.

(iii) NO MINIMUM PRICE.—A minimum price shall not be set for the purchase of a NO_X allowance auctioned under subparagraph (A).

(iv) REGULATIONS.—The Administrator, in consultation with the Secretary of the Treasury, shall promulgate a regulation to carry out this paragraph.

(D) USE OF NO_X ALLOWANCES.—A NO_X allowance purchased at an auction under subparagraph (A) may be used for any purpose and at any time after the auction that is permitted for use of a NO_X allowance under this Act.

(E) PROCEEDS OF AUCTION.—The proceeds from an auction under this paragraph shall be distributed to the owner of an affected source in proportion to the number of allowances that the owner would have received but for this subsection.

(f) NATURE OF NO_X ALLOWANCES.—

(1) NOT A PROPERTY RIGHT.—A NO_X allowance shall not be considered to be a property right.

(2) LIMITATION OF NO_X ALLOWANCE.—Notwithstanding any other provision of law, the Administrator may terminate or limit a NO_X allowance.

(g) PROHIBITIONS.—

(1) IN GENERAL.—After January 1, 2000, it shall be unlawful—

(A) for the owner or operator of an affected facility to operate the affected facility in such a manner that the affected facility emits nitrogen oxides in excess of the amount permitted by the quantity of NO_X allowances held by the designated representative of the affected facility; or

(B) for any person to hold, use, or transfer a NO_X allowance allocated under this Act, except as provided under this Act.

(2) OTHER EMISSION LIMITATIONS.—Section 407 of the Clean Air Act (42 U.S.C. 7651f) is repealed.

(3) TIME OF USE.—A NO_X allowance may not be used before the calendar year for which the NO_X allowance is allocated.

(4) PERMITTING, MONITORING, AND ENFORCEMENT.—Nothing in this section affects—

(A) the permitting, monitoring, and enforcement obligations of the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.); or

(B) the requirements and liabilities of an affected facility under that Act.

(h) SAVINGS PROVISIONS.—Nothing in this section—

(1) affects the application of, or compliance with, the Clean Air Act (42 U.S.C. 7401 et seq.) for an affected facility, including the provisions related to applicable national ambient air quality standards and State implementation plans;

(2) requires a change in, affects, or limits any State law regulating electric utility rates or charges, including prudency review under State law;

(3) affects the application of the Federal Power Act (16 U.S.C. 791a et seq.) or the authority of the Federal Energy Regulatory Commission under that Act; or

(4) interferes with or impairs any program for competitive bidding for power supply in a State in which the Program is established.

SEC. 5. INDUSTRIAL SOURCE MONITORING.

Section 412(a) of the Clean Air Act (42 U.S.C. 7651k(a)) is amended in the first sentence by inserting ", or of any industrial facility with a capacity of 100 or more mmBtu's per hour," after "The owner and operator of any source subject to this title".

SEC. 6. EXCESS EMISSIONS PENALTY.

(a) IN GENERAL.—

(1) LIABILITY.—The owner or operator of an affected facility that emits nitrogen oxides in any calendar year in excess of the NO_X allowances the owner or operator holds for use for the facility for that year shall be liable for the payment of an excess emissions penalty.

(2) CALCULATION.—The excess emissions penalty shall be calculated by multiplying $6,000 by the quantity that is equal to—

(A) the quantity of NO_X allowances that would authorize the nitrogen oxides emitted by the facility or the calendar year; minus

(B) the quantity of NO_X allowances that the owner or operator holds for use for the facility for that year.

(3) OVERLAPPING PENALTIES.—A penalty under this section shall not diminish the liability of the owner or operator of an affected facility for any fine, penalty, or assessment against the owner or operator for the same violation under any other provision of law.

(b) EXCESS EMISSIONS OFFSET.—

(1) IN GENERAL.—The owner or operator of a affected facility that emits nitrogen oxide during a calendar year in excess of the NO_X allowances held for the facility for the calendar year shall offset in the following calendar year a quantity of NO_X allowances equal to the number of NO_X allowances that would authorize the excess nitrogen oxides emitted.

(2) PROPOSED PLAN.—Not later than 60 days after the end of the year in which excess emissions occur, the owner or operator of an affected facility shall submit to the Administrator and the State in which the affected facility is located a proposed plan to achieve the offset required under paragraph (1).

(3) CONDITION OF PERMIT.—On approval of the proposed plan by the Administrator, as submitted, or as modified or conditioned by the Administrator, the plan shall be considered a condition of the operating permit for the affected facility without further review or revision of the permit.

(c) PENALTY ADJUSTMENT.—The Administrator shall annually adjust the amount of the penalty specified in subsection(a) to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics.

SEC. 7. SULFUR DIOXIDE ALLOWANCE PROGRAM REVISIONS.

Section 402 of the Clean Air Act (42 U.S.C. 7651a) is amended by striking paragraph (3) and inserting the following:

"(3) ALLOWNCE.—The term 'allowance' means an authorization, allocated to an affected unit by the Administrator under this title, to emit, during or after a specified calendar year—

"(A) in the case of allowance allocated for calendar years 1997 through 2004, 1 ton of sulfur dioxide; and

"(B) in the case of allowances allocated for calendar year 2005 and each calendar year thereafter, ½ ton of sulfur dioxide.".

SEC. 8. REGIONAL ECOSYSTEMS.

(a) REPORT.—

(1) IN GENERAL.—Not later than December 21, 2002, the Administrator shall submit to Congress a report identifying objectives for scientifically credible environmental indicators, as determined by the Administrator, that are sufficient to protect sensitive ecosystems of the Adirondack Mountains, mid-Appalachian Mountains, Rocky Mountains, and Southern Blue Ridge Mountains and water bodies of the Great Lakes, Lake Champlain, Long Island Sound, and the Chesapeake Bay.

(2) ACID NEUTRALIZING CAPACITY.—The report under paragraph (1) shall—

(A) include acid neutralizing capacity as an indicator; and

(B) identify as an objective under paragraph (1) the objective of increasing the proportion of water bodies in sensitive receptor areas with an acid neutralizing capacity greater than zero from the proportion identified in surveys begun in 1984.

(3) UPDATED REPORT.—Not later than December 31, 2008, the Administrator shall submit to Congress a report updating the report under paragraph (1) and assessing the status and trends of various environmental indicators for the regional ecosystems referred to in paragraph (1).

(4) REPORTS UNDER THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—The reports under this subsection shall be subject to the requirements applicable to a report under section 103(j)(3)(E) of the Clean Air Act (42 U.S.C. 7403(j)(3)(E)).

(b) REGULATIONS.—

(1) DETERMINATION.—Not later than December 31, 2008, the Administrator shall determine whether emissions reductions under section 4 are sufficient to ensure achievement of the objectives stated in subsection (a)(1).

(2) PROMULGATION.—If the Administrator determines under paragraph (1) that emissions reductions under section 4 are not sufficient to ensure achievement of the objectives identified in subsection (a)(1), the Administrator shall promulgate, not later than 2 years after making the finding, such regulations, including modification of nitrogen oxide and sulfur dioxide allowance allocations or any such measure, as the Administrator determines are necessary to protect the sensitive ecosystems described in subsection (a)(1).

SEC. 9. GENERAL COMPLIANCE WITH OTHER PROVISIONS.

Except as expressly provided in this Act, compliance with this Act shall not exempt or exclude the owner or operator of an affected facility from compliance with any other law.

SEC. 10. MERCURY EMISSION STUDY AND CONTROL.

(a) STUDY AND REPORT.—The Administrator shall—

(1) study the practicality of monitoring mercury emissions from all combustion units that have a capacity equal to or greater than 250 mmBtu's per hour; and

(2) not later than 2 years after the date of enactment of this Act, submit to Congress a report on the results of the study.

(b) REGULATIONS CONCERNING MONITORING.—Not later than 1 year after the date of submission of the report under subsection (a), the Administrator shall promulgate a regulation requiring the reporting of mercury emissions from units that have a capacity equal to or greater than 250 mmBtu's per hour.

(c) EMISSION CONTROLS.—

(1) IN GENERAL.—Not later than 1 year after the commencement of monitoring activities under subsection (b), the Administrator shall promulgate a regulation controlling electric

utility and industrial source emissions of mercury.

(2) FACTORS.—The regulation shall take into account technological feasibility, cost, and the projected reduction in levels of mercury emissions that will result from implementation of this Act.

SEC. 11. DEPOSITION RESEARCH BY THE ENVIRONMENTAL PROTECTION AGENCY.

(a) IN GENERAL.—The Administrator shall establish a competitive grant program to fund research related to the effects of nitrogen deposition on sensitive watersheds and coastal estuaries in the Eastern United States.

(2) CHEMISTRY OF LAKES AND STREAMS.—

(1) INITIAL REPORT.—Not later than September 30, 2001, the Administrator 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 on the health and chemistry of lakes and streams of the Adirondacks that were subjects of the report transmitted under section 404 of Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (104 Stat. 2632).

(2) FOLLOWING REPORT.—Not later than 2 years after the date of the report under paragraph (1), the Administrator shall submit a report updating the information contained in the initial report.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a), $1,000,000 for each of fiscal years 2000 through 2005; and

(2) to carry out subsection (b), $1,000,000 for each of fiscal years 2000, 2001, 2007, and 2008.

AMENDMENT NO. 1034

At the end of the bill add the following:

TITLE ____—PATIENTS' BILL OF RIGHTS

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Patients' Bill of Rights Act of 1999''.

Subtitle A—Health Insurance Bill of Rights

CHAPTER 1—ACCESS TO CARE

SEC. ___101. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider without prior authorization by the plan or issuer, the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization by the plan or issuer; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection), if the services are maintenance care or post-stabilization care covered under such guidelines.

SEC. ___102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage; and

(B) one or more coverage options that do not provide benefits only through participating health care providers.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term ''point-of-service coverage'' means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. ___103. CHOICE OF PROVIDERS.

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. ___104. ACCESS TO SPECIALTY CARE.

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating health professional as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERVICES.—

(A) IN GENERAL.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance

coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this subsection, the term ''specialist'' means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term ''special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. ___105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. ___106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. ___107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section ___121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section ___115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. ___108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage. This subsection shall only apply to a plan's or issuer's application of restrictions on the participation of health care providers in a network and shall not be construed as requiring a plan or issuer to create or establish new health care providers in an area.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. ___109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage. Pursuant to section ___192(b), except as provided in section ___152, nothing in this subtitle shall be construed as requiring a group health plan or health insurance issuer to provide specific benefits under the terms of such plan or coverage.

CHAPTER 2—QUALITY ASSURANCE

SEC. ___111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to

preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section ___112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section ___114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least a stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. ___112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction (including satisfaction with respect to services to children) of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section ___121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

(e) EXCEPTION FOR NON-MEDICAL, RELIGIOUS CARE PROVIDERS.—The requirements of subsection (a), insofar as they may apply to a provider of health care, do not apply to a provider that provides no medical care and that provides only a religious method of healing or religious nonmedical nursing care.

SEC. ___113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.—

(1) IN GENERAL.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. ___114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section ___111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. ___115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section ___111(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term ''health care professional'' means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined in section ___191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review

activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section ____101, respectively.

(e) NOTICE OF ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section ____132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. ____116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section ____112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

CHAPTER 3—PATIENT INFORMATION

SEC. ____121. PATIENT INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section ____103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) QUALITY ASSURANCE.—A summary description of the data on quality collected under section ____112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section ____112(b)(4).

(10) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section ____115, including under any drug formulary program under section ____107.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section ____122.

(6) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(7) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) UPDATING PARTICIPATING PROVIDER INFORMATION.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. ____122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. ____123. HEALTH INSURANCE OMBUDSMEN.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

CHAPTER 4—GRIEVANCE AND APPEALS PROCEDURES

SEC. ____131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) SCOPE.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this subtitle.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section ____111(a) of all grievances and appeals relating to quality of care.

SEC. ____132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section ____133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section ____121(b)(8).

(2) APPEALABLE DECISION DEFINED.—In this section, the term ''appealable decision'' means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section ____101.

(C) Failure to provide a choice of provider under section ____103.

(D) Failure to provide qualified health care providers under section ____103.

(E) Failure to provide access to specialty and other care under section ____104.

(F) Failure to provide continuation of care under section ____105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section ____106.

(H) Failure to provide access to needed drugs under section ____107(a)(3) or 107(b).

(I) Discrimination in delivery of services in violation of section ____109.

(J) An adverse determination under a utilization review program under section ____115.

(K) The imposition of a limitation that is prohibited under section ____151.

(b) INTERNAL APPEAL PROCESS.—

(1) IN GENERAL.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, or enrollee, or any provider or other person acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) CONDUCT OF REVIEW.—

(A) IN GENERAL.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) AVAILABILITY AND PARTICIPATION OF CLINICAL PEERS.—The individuals conducting such review shall include one or more clinical peers (as defined in section ____191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) DEADLINE.—

(A) IN GENERAL.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) EXTENSION.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) NOTICE.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee (including in the case of a child, development) or such an individual's ability to regain maximum function.

(2) PROCESS.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the appeal if the request for an expedited appeal is submitted under subparagraph (A) by a physician and the request indicates that the situation described in paragraph (1) exists.

(d) DIRECT USE OF FURTHER APPEALS.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. ____133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—For purposes of this section, the term ''externally appealable decision'' means an appealable decision (as defined in section ____132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized (including, in the case of a child, development) as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) EXHAUSTION OF INTERNAL APPEALS PROCESS.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section ____132, but only if the decision is made in a timely basis consistent with the deadlines provided under this chapter.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) RESTRICTIONS ON QUALIFIED EXTERNAL APPEAL ENTITY.—

(i) BY STATE FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) BY FEDERAL GOVERNMENT FOR GROUP HEALTH PLANS.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term ''qualified external appeal entity'' means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the State has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this subtitle shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

CHAPTER 5—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

SEC. ___141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term ''medical communication'' means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term ''medical communication'' does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. ___142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. ___143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians

(if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. ___144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this subtitle.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

CHAPTER 6—PROMOTING GOOD MEDICAL PRACTICE

SEC. ___151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term ''manner or setting'' means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital. Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term ''medically necessary or appropriate'' means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. ___152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, to be medically appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) 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 a woman 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 monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) 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 benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) 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.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

CHAPTER 7—DEFINITIONS

SEC. ___191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this subtitle in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this subtitle under sections 2707 and 2753 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this subtitle under section 714 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this subtitle under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this subtitle:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this subtitle, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term ''clinical peer'' means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. ___192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this subtitle shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this subtitle.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this subtitle shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in section ___152, nothing in this subtitle shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

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

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. ___193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this subtitle. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this subtitle.

Subtitle B—Application of Patient Protection Standards to Group Health Plans and Health Insurance Coverage under Public Health Service Act

SEC. ___201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1999, and each health insurance issuer shall comply with patient protection requirements under such subtitle with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. ___202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Subpart 3 of part B of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1999 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice

requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such subtitle as if such section applied to such issuer and such issuer were a group health plan.''.

Subtitle C—Amendments to the Employee Retirement Income Security Act of 1974

SEC. ___301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of subtitle A of the Patients' Bill of Rights Act of 1999 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) section ___101 (relating to access to emergency care).

''(B) section ___102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

''(C) section ___103 (relating to choice of providers).

''(D) section ___104 (relating to access to specialty care).

''(E) section ___105(a)(1) (relating to continuity in case of termination of provider contract) and section ___105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(F) section ___106 (relating to coverage for individuals participating in approved clinical trials.)

''(G) section ___107 (relating to access to needed prescription drugs).

''(H) section ___108 (relating to adequacy of provider network).

''(I) Chapter 2 of subtitle A (relating to quality assurance).

''(J) section ___143 (relating to additional rules regarding participation of health care professionals).

''(K) section ___152 (relating to standards relating to benefits for certain breast cancer treatment).

''(2) INFORMATION.—With respect to information required to be provided or made available under section ___121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections ___131 and ___132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section ___133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) section ___109 (relating to nondiscrimination in delivery of services).

''(B) section ___141 (relating to prohibition of interference with certain medical communications).

''(C) section ___142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

''(D) section ___144 (relating to prohibition on retaliation).

''(E) section ___151 (relating to promoting good medical practice).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section ___144(b)(1) of the Patients' Bill of Rights Act of 1999, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section ___144(b)(1) of the Patients' Bill of Rights Act of 1999 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of chapter 4 (and section ___115) of subtitle A of the Patients' Bill of Rights Act of 1999 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Patient protection standards.''.

(3) Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 144(b))'' after ''part 7''.

SEC. ___302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

''(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

''(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

''(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

''(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

''(i) any cause of action against an employer or other plan sponsor maintaining the group health plan or against an employee of such an employer or sponsor acting within the scope of employment, or

''(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

''(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

''(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

''(ii) the exercise by such employer or other plan sponsor (or employee of such authority) resulted in personal injury or wrongful death.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.

''(4) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

Subtitle D—Application to Group Health Plans under the Internal Revenue Code of 1986

SEC. ___401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patient freedom of choice.''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

Subtitle E—Effective Dates; Coordination in Implementation; Limitation

SEC. ___501. EFFECTIVE DATES AND RELATED RULES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections ___201(a), ___301, and ___401 (and subtitle A insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2000 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by sections ___201(a), ___301, and ___401 (and subtitle A insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section ___202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this title (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

SEC. ___502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and subtitle A of the Patients' Bill of Rights Act of 1999''.

SEC. ___503. LIMITATION.

Notwithstanding any other provision of law, the provisions of section 321 of this Act shall not apply and shall be considered null and void.

AMENDMENT NO. 1035

On page 80, strike lines 1 through 11 and insert the following:

SEC. 321. Section 701 of title 49, United States Code, is amended to read as follows:

''§ 701. Establishment of Board

''(a) ESTABLISHMENT.—There is established within the Department of Transportation the Surface Transportation Board referred to in this section as the 'Board'.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Board shall consist of 11 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 6 members may be appointed from the same political party.

''(2) QUALIFICATIONS OF MEMBERS.—At any given time, at least 8 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least 3 members shall be individuals with professional or business experience (including agriculture) in the private sector. The members of the Board shall be representative of the major rail-dependent regions of the United States.

''(3) TERMS.—

''(A) IN GENERAL.—The term of each member of the Board shall—

''(i) be 5 years; and

''(ii) begin when the term of the predecessor of that member ends.

''(B) VACANCIES.—An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed 1 year.

''(C) REMOVAL.—The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

''(4) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no individual may serve as a member of the Board for more than 2 terms.

''(B) EXCEPTIONS.—Any individual who, as of the date of enactment of the Department of Transportation and Related Agencies Appropriations Act, 2000, is serving as a member of the Board for the remainder of a term for which that member was originally appointed to the Interstate Commerce Commission or is appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, may not be appointed for more than 1 additional term.

''(5) PROHIBITION.—A member of the Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

''(6) ADMINISTRATION.—A vacancy in the membership of the Board does not impair the right of the remaining members to exercise all of the powers of the Board. The Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

''(c) CHAIRMAN.—

''(1) IN GENERAL.—There shall be at the head of the Board a Chairman, who shall be designated by the President from among the members of the Board. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

''(2) RESPONSIBILITIES OF CHAIRMAN.—Subject to the general policies, decisions, findings, and determinations of the Board, the Chairman shall be responsible for administering the Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Board. The Chairman shall—

''(A) appoint and supervise, other than regular and full-time employees in the immediate offices of another member, the officers and employees of the Board, including attorneys to provide legal aid and service to the Board and its members, and to represent the Board in any case in court;

''(B) appoint the heads of offices with the approval of the Board;

''(C) distribute Board business among officers, employees, and offices of the Board;

''(D) prepare requests for appropriations for the Board and submit those requests to the President and Congress with the prior approval of the Board; and

''(E) supervise the expenditure of funds allocated by the Board for major programs and purposes.''.

AMENDMENT NO. 1036

On page 80, strike lines 1 through 11 and insert the following:

SEC. 321. AIRLINE COMPETITION.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102(2) of title 49, United States Code.

(2) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in section 40102(6) of title 49, United States Code.

(3) AIRPORT.—The term ''airport'' has the meaning given that term in section 40102(9) of title 49, United States Code.

(4) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) PREFERENCE FOR LOW-COMPETITION AIRPORTS.—

(1) DEFINITIONS.—Section 41714(h) of title 49, United States Code, is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (2) the following:

''(3) LARGE HUB AIRPORT.—The term 'large hub airport' means an airport described in section 47134(d)(2).

''(4) LOW-COMPETITION AIRPORT.—The term 'low-competition airport' means an airport that—

''(A) is not a large hub airport; and

''(B) the Secretary determines has substantially—

''(i) less service than the average service at airports in the United States; or

''(ii) higher airfares than average airfares for airports in the United States.''.

(2) PREFERENCE.—Section 41714(c)(1) of title 49, United States Code, is amended by adding at the end the following: ''In granting exemptions under this paragraph, the Secretary shall give preference to air transportation provided to low-competition airports that are located within a 500-mile radius of a high density airport.''.

(c) UNFAIR COMPETITION.—

(1) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Attorney General, shall issue regulations that define predatory practices and unfair methods of competition of air carriers for the purposes of applying this subsection to complaints of predatory practices or unfair methods of competition filed under section 41712 of title 49, United States Code, or any other applicable provision of law.

(2) DETERMINATIONS REGARDING ACTIONS FILED.—

(A) ACTIONS FILED BEFORE THE DATE OF ENACTMENT OF THIS ACT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall complete action on any complaint alleging a predatory practice or unfair method of competition by an air carrier that was filed with the Secretary under section 41712 of title 49, United States Code, or any other applicable provision of law before the date of enactment of this Act.

(B) ACTIONS FILED ON OR AFTER THE DATE OF ENACTMENT OF THIS ACT.—

(i) IN GENERAL.—Not later than 90 days after a complaint alleging a predatory practice or unfair method of competition by an air carrier is filed with the Secretary under section 41712 of title 49, United States Code, or any other applicable provision of law, the Secretary shall make an initial finding concerning whether the practice that is the subject of the complaint constitutes a predatory practice or unfair method of competition.

(ii) APPLICABILITY.—Clause (i) shall apply to a complaint filed with the Secretary on or after the date of enactment of this Act.

(3) RESTRAINING ORDERS.—

(A) IN GENERAL.—In a manner consistent with section 41712 of title 49, United States Code, or any other applicable provision of law, the Secretary shall enjoin, pending final determination, any action of an air carrier that the Secretary finds to be a predatory practice or unfair method of competition under paragraph (2).

(B) PERIOD FOR TAKING ACTION.—The Secretary shall carry out the requirements of subparagraph (A) not later than 15 days after an initial finding is made with respect to a complaint under paragraph (2) (or if the initial finding is made before the date of enactment of this Act, not later than 15 days after the date of enactment of this Act).

(d) LIMITS ON COMPETITION IN AVIATION INDUSTRY.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall transmit to Congress a report concerning barriers to entry, predatory practices (including pricing), and other limits on competition in the aviation industry.

(e) PROVISIONS TO PREVENT INCREASED AIRCRAFT NOISE.—

(1) SECRETARIAL AUTHORITY UNDER THIS SECTION.—Nothing in this section or the amendments made by this section shall authorize the Secretary to take any action that would increase aircraft noise in any community in the vicinity of an airport.

(2) STAGE 4 NOISE LEVELS.—

(A) PROPOSED REGULATIONS.—Section 47523 of title 49, United States Code, is amended by adding at the end the following:

''(c) STAGE 4 NOISE LEVELS.—

''(1) PROPOSED REGULATIONS.—Not later than 1 year after the date of enactment of the Department of Transportation and Related Agencies Appropriations Act, 2000, the Secretary shall issue proposed regulations that—

''(A) establish, in a manner consistent with this chapter, stage 4 noise levels applicable to aircraft designated by the Secretary as stage 4 aircraft; and

''(B) provide for the implementation of the stage 4 noise level requirements by the date that is 36 months after the date of issuance of the proposed regulations.

''(2) CRITERIA FOR NOISE LEVELS.—The stage 4 noise levels established under this subsection shall—

''(A) provide for a significant reduction in the level of noise generated by aircraft; and

''(B) be consistent with the noise levels attainable through the use of the most effective noise control technology available for stage 3 aircraft (as that term is used under section 47524(c)), as of January 1, 1999.''.

(2) LEGISLATIVE PROPOSALS.—At the same time as the Secretary issues proposed regulations under section 47523(c) of title 49, United States Code, as added by paragraph (1) of this subsection, the Secretary shall submit to Congress such proposed legislation (including amendments to chapter 475 of title 49, United States Code) as is necessary to ensure the implementation of stage 4 noise levels (as that term is used in such section 47523(c)).

(f) CLARIFICATION OF LEGAL STANDING.—Section 41713(b) of title 49, United States Code, is amended by adding at the end the following:

''(5) ACTIONS NOT BARRED.—This subsection shall not bar any cause of action brought against an air carrier by 1 or more private parties seeking to enforce any right under the common law of any State or under any State statute, other than a statute purporting to directly prescribe fares, routes, or levels of air transportation service.''.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

CLELAND AMENDMENT NO. 1037

(Ordered to lie on the table.)

Mr. CLELAND submitted an amendment intended to be proposed by him to the bill, S. 1233, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. REDESIGNATION OF NATIONAL SCHOOL LUNCH ACT AS RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT.—(a) IN GENERAL.—The first section of the National School Lunch Act (42 U.S.C. 1751 note) is amended by striking ''National School Lunch Act'' and inserting ''Richard B. Russell National School Lunch Act''.

(b) CONFORMING AMENDMENTS.—The following provisions of law are amended by striking ''National School Lunch Act'' each place it appears and inserting ''Richard B. Russell National School Lunch Act'':

(1) Sections 3 and 13(3)(A) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237).

(2) Section 404 of the Agricultural Act of 1949 (7 U.S.C. 1424).

(3) Section 201(a) of the Act entitled ''An Act to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes'', approved September 21, 1959 (7 U.S.C. 1431c(a); 73 Stat. 610).

(4) Section 211(a) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4004(a)).

(5) Section 245A(h)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(A)).

(6) Sections 403(c)(2)(C), 422(b)(3), 423(d)(3), 741(a)(1), and 742 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)(C), 1632(b)(3), 1183a note, 42 U.S.C. 1751 note, 8 U.S.C. 1615; Public Law 104–193).

(7) Section 2243(b) of title 10, United States Code.

(8) Sections 404B(g)(1)(A), 404D(c)(2), and 404F(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–22(g)(1)(A), 1070a–24(c)(2), 1070a–26(a)(2); Public Law 105–244).

(9) Section 231(d)(3)(A)(i) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2341(d)(3)(A)(i)).

(10) Section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)).

(11) Section 1397E(d)(4)(A)(iv)(II) of the Internal Revenue Code of 1986.

(12) Sections 254(b)(2)(B) and 263(a)(2)(C) of the Job Training Partnership Act (29 U.S.C. 1633(b)(2)(B), 1643(a)(2)(C)).

(13) Section 3803(c)(2)(C)(xiii) of title 31, United States Code.

(14) Section 602(d)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(d)(9)(A)).

(15) Sections 2(4), 3(1), and 301 of the Healthy Meals for Healthy Americans Act of 1994 (42 U.S.C. 1751 note; Public Law 103–448).

(16) Sections 3, 4, 7, 10, 13, 16(b), 17, and 19(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1772, 1773, 1776, 1779, 1782, 1785(b), 1786, 1788(d)).

(17) Section 658O(b)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(b)(3)).

(18) Subsection (b) of the first section of Public Law 87–688 (48 U.S.C. 1666(b)).

(19) Section 10405(a)(2)(H) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2489).

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 13, 1999 at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 729, the National Monument Public Participation Act of 1999. A bill to ensure that Congress and the public have the right to participate in the declaration of national monuments on Federal land.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Mike Menge (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday June 24, 1999. The purpose of this meeting will be to discuss agricultural issues related to a variety of trade topics

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 24, 1999, to conduct a hearing on ''Export Administration Act Reauthorization: Private Sector Views.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 24, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to examine the implications of the proposed acquisition of the Atlantic Richfield Company by BP Amoco, PLC.

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

COMMITTEE ON FINANCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Thursday, June 24, 1999 beginning at 10:00 a.m. in room SD–215, to conduct a markup.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 24, 1999 at 10:00 a.m. to hold a hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet for an executive business meeting, during the session of the Senate on Thursday, June 24, 1999, at 11:00 a.m. in Senate Dirksen, Room 226.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 24, 1999 at 2:00 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON AVIATION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, June 24, 1999, at 2:15 pm on FAA research and development.

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing on NO_X/State Implementation Plans Thursday, June 24, 9:00 a.m., Hearing Room (SD–406).

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion be authorized to meet during the session of the Senate on Thursday, June 24, 1999 at 2:45 p.m. to hold a hearing.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. THOMAS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be permitted to meet on Thursday, June 24, 1999 at 11:00 a.m. for a hearing on H.R. 974—The District of Columbia College Access Act and S. 856—Expanded Options in Higher Education for District of Columbia Students Act of 1999.

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

ADDITIONAL STATEMENTS

HONORING THREE GEORGIAN HEROES

● Mr. CLELAND. Mr. President, I am deeply honored to rise today to recognize Douglas Scales, Floyd Eugene Collins, Jr., and Richard Floyd Burnham, Jr., three young men from my home town of Lithonia, Georgia who fought in Vietnam, but tragically, did not come home. On July 5, 1999, the city of Lithonia will dedicate the Lithonia Vietnam Veterans Memorial to honor the sacrifices of these heroic young men. It is said, ''Poor is the nation which has no heroes. Poorer still is the nation which has them, but forgets,'' We will dedicate this memorial to remember, and to show our heart-felt appreciation to these young men for fighting for our country, and to say thank you to their families for their own sacrifices in the name of our freedom.

As I mentioned, this memorial will be dedicated on July 5, one day after we will celebrate July 4, our Independence Day. On July 4, 1776, the Continental Congress signed the Declaration of Independence in Philadelphia. In that powerful and historic document, the thirteen colonies declared themselves a self-governing body, and rightly stated that King George VIII had ''plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.''

It strikes me that those words could have applied to many situations and many cruel and despotic rulers since 1776. I think of Hitler's Germany, I think of Vietnam, I think even of Bosnia and Kosovo. But because of the principals of our founding fathers and because of many great American presidents who have followed, the United States has been in a unique but sobering position to defend not only its own freedom, but the very concept of freedom across the globe. That was the case in 1967 when Specialist Collins was in Bien Hoe. That was the case in 1968 when Private First Class Scales was in Tay Ninh. That was the case in 1968 when Specialist Burnham was in Quan Nam. It is still the case today.

Three Georgians signed the Declaration of Independence in 1776. On July 5, we will unveil and honor the names of three Georgians. Winston Churchill described his concept of duty in this way, ''What is the use of living if it be not to strive for noble causes and to make this muddled world a better place for those who will have it after we are gone.'' Doug Scales, Floyd Eugene Collins, Jr. and Richard Floyd Burnham,

Jr. strove for noble causes and made this world a better place for us. My colleague and fellow Vietnam Veteran Senator JOHN KERREY described what he remembered most about his experience. ''The shared struggle to do more than survive,'' he said. ''And most of all to bestow honor on our service and to our friends who were lost.'' In this small way, we in Lithonia hope to bestow honor on our friends, our brothers, our sons and husbands who were lost. Not, we say, in vain.●

TRIBUTE TO ORION COMPUTER SOURCING GROUP

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the Orion Computer Sourcing Group for being named one of Entrepreneur Magazine's ''Hot 100'' fastest growing businesses in the country. Orion was the highest ranking of the three New Hampshire business included on this prestigious list and one of only seven New England businesses recognized by the magazine.

This Portsmouth based company, which purchases excess computer hardware from manufacturers and sells it to clients like Hewlett-Packard, Compaq, and Packard Bell, is definitely on the move. Orion's president, Grant Guilbeault, started the company in his basement in October of 1997 with just $30,000. It has grown to a work force of 14, and continues to expand as business increases. Orion has more than doubled last year's revenue, and similar growth is expected for next year.

Orion Computer Sourcing is not content with resting on its laurels. Grant Guilbeault and the entire Orion team have set their goals for the future and are currently in the process of making plans to grow the company into a $100-million dollar business in the next few years. If their efforts of the past 18 months are any indication, I have no doubt they will reach their goals.

Part of Orion's tremendous success has been their ability to come together as a team and have a good time. One of the centerpieces of the office is a pool table where all the employees can gather to enjoy themselves, escape the pressures of building a business, and get to know each other. It has obviously been a very successful formula for everyone at Orion.

Once again, I wish to congratulate the employees of Orion on their achievement. I am proud to serve you in the United States Senate.●

RETIREMENT OF SAM HARMAN

● Mr. CLELAND. Mr. President, I rise today to recognize a most outstanding and accomplished citizen of Georgia, Mr. Sam Harman, on the eve of his retirement from the public schools system. As an educator for 36 years, Sam Harman's work ethic, coupled with his goal of excellence at each of his schools has earned him the sincere respect and admiration of his Dunwoody, Georgia community.

Mr. Harman began his career as a math, social studies and science teacher. Later, he coached football and driver's education. His first administrative job was as principal of one of Georgia's largest middle schools, in Cobb County, Georgia. In 1987, he was named the principal of Vanderlyn Elementary in Dunwoody, Georgia, where he remains today.

Throughout his tenure at Vanderlyn, Mr. Harman has always put his duties to his school ahead of anything else to make this school an example of excellence not only in the community, but in the public school system at large. He arrives at school at 6 o'clock each morning and stays until 6 o'clock every night. He is a remarkable person with energy to spare.

Sam Harman's dedication to education and his contributions to the community are numerous. To really get an understanding of this wonderful man, you only have to look at his school's many accomplishments. Under his watch, Vanderlyn Elementary has expanded from 400 to more than 700 students. Scholastically, Vanderlyn ranks in the top five schools in Georgia. National test scores for the past five years show Vanderlyn students averaging above the 90th percentile in virtually every academic subject. Teacher transfer rates are extremely low while pupil and teacher attendance rates are among the highest in the country. These statistics are the direct result of Sam Harman's commitment to this school.

Mr. Harman takes a personal interest in every child in his school, and knows each by name. He visits each classroom daily, and supervises both lunchroom and bus duty both to reduce the work of his teachers and to interact with the children. Strong pride exists at Vanderlyn because students, parents and staff know that Principal Harman cares about them as individuals.

While his compassion for others is unique, he is also a firm mediator and strict disciplinarian. Mr. Harman has a rule that students must come to school to learn. Students are well aware that anyone who performs differently will be dealt with swiftly and directly. Simply put, Mr. Harman will not allow any students to disrupt the learning process.

After eleven years at Vanderlyn and 36 years in education, Mr. Harman has now decided to retire. Instead of rising at dawn to herd children, he will be getting up to herd cattle on his farm, where he hopes to spend much more time.

Mr. President, I warmly request that you and my colleagues join me in paying tribute to a most outstanding man, Mr. Sam Harman of Atlanta, GA. We have been richly blessed to find such a caring and dedicated school leader who has positively touched the lives of many. I thank him, as well as his family, for allowing us to occupy so much of his time for these past 36 years.●

TRIBUTE TO PHILLIP I. EARL

● Mr. REID. Mr. President, I rise today to pay tribute to Phillip I. Earl, the Curator of History for the Nevada Historical Society in Reno. Phillip Earl will be retiring from the Nevada Historical Society on June 30, 1999 after 30 years of service to the State of Nevada.

Allow me to introduce Phillip Earl. He grew up in Boulder City, Nevada and graduated from high school there in 1955. After high school, Phillip Earl started working in construction and later in 1957, he joined the U.S. Army and served in Europe until 1960.

After his service to his country, Phillip Earl began attending classes at Nevada Southern university in Las Vegas. He transferred to Reno for his senior year and graduated with a degree in history/political science and education. Phillip Earl was a graduate assistant for two years following his graduation. During that time he taught school in Reno and was married.

In 1973 Phillip Earl began his career at the Nevada Historical Society. During his tenure, he has worked under six governors, two acting directors, and three directors. He has worked with four assistant directors. Phillip Earl has also worked with many photo curators, accountants, registrars, and volunteers. Phillip Earl has survived them all. He has provided his expertise and passion for history with editors, copy writers, authors, curriculum specialists, teachers, exhibit designers and many others whose jobs reflect on history in one way or another.

He started at the Nevada Historical Society as a Museum Attendant and worked his way up to Curator of Exhibits and later Curator of History, his present role at the Historical Society.

Phillip Earl has many achievements since serving as Curator of History. He is best known in Nevada for his popular history column, ''This Was Nevada,'' which went out to some 26 newspapers around the state. When the column's first edition came out in May of 1975, there were six people on the column's staff. But the column eventually fell into the very capable hands of Phillip Earl who became it's only author. In 1986, the Historical Society published the first volume of articles from the column and a second volume is under production and scheduled to be released this summer. This second volume of Phillip Earl's column will probably be a very popular item, because his column, ''This Was Nevada'' retires with Phillip Earl later this month making his retirement even more special for Nevada and the history he has been able to capture for over 20 years.

Phillip Earl also writes scholarly essays for the Nevada Historical Society Quarterly and the Humboldt Historian, the journal of the North Central Nevada Historical Society.

He has explored many historical topics in depth over his career. Some of these are the Spanish-American War, World Wars I and II, early aviation,

automobiling, shortline railroads, outlaw and lawmen history, the movie industry, race relations, boxing, ethnic history, women's history, the Lincoln Highway, county seat fights, county boundary controversies, the Great Spanish Flu Epidemic of 1918 to 1919, and even Searchlight, Nevada. And there is much more, too numerous to list.

Phillip Earl's love for Nevada and the rich history that the State is on display every week during the school year. Since 1976 Phillip Earl has been teaching Nevada History at Truckee Meadows Community College in Reno. He helps bring Nevada's past to life for hundreds of college students who may never have had exposure to the Silver State's rich history before.

Capturing the history of the Great State of Nevada will always be the legacy of Phillip I. Earl. He has preserved Nevada's history for all future generations to reflect upon, to learn from, and to enjoy. As one who has a great deal of respect for Nevada's proud history, it is this Senator's privilege to pay tribute to Phillip I. Earl, a great historian, Nevadan, and American.●

IN RECOGNITION OF FRANK D. STELLA

● Mr. LEVIN. Mr. President, I rise today to pay tribute to a special person who will be honored on June 28, Frank D. Stella.

A ballroom in Cobo Hall in my hometown of Detroit will be filled next Monday with people from all walks of life who have been touched by this remarkable man. In 1946, after serving in World War II, Frank Stella established The F.D. Stella Products Company, a food service and dining equipment design and distribution company, in Detroit. He built his business into one of the most successful of its kind in Michigan, and throughout the years he has used his success to give back to his community. But he is also recognized across the country and worldwide as a leader in the Italian-American community.

I will not list all of the business, national, international, civic, fraternal, religious, veterans and social organizations that Frank Stella belongs to—the list is so long, my colleagues might accuse me of trying to filibuster. But I would like to highlight a few of the honors he has received because I believe that they illustrate just how many lives he has touched. In Metro Detroit, Frank has been recognized for his commitment to the community with many awards, including the Special Distinguished Humanitarian Award by the Arab and Chaldean Community Council, the Distinguished Service Award by Detroit Symphony Orchestra Hall, the State of Israel Bonds Award and the Summit Award by the Greater Detroit Chamber of Commerce. Frank's humanitarian works have also received recognition outside Michigan. He has been invested as a Knight of the Equestrian Order of the Holy Sepulchre of Jerusalem, received the Ellis Island Medal of Honor and was given Italy's highest decoration by the President and Prime Minister of Italy in 1991.

Frank Stella is a man of countless talents and immeasurable dedication. But Frank has something else, too, something he uses periodically to the benefit of the people of Metro Detroit, to wit, clout. While we all know people with clout, Frank's clout is unique. Yes, he has known Presidents, from Richard Nixon to Bill Clinton. He has met the Pope and Mother Teresa. He counts among his friends famous entertainers like Sophia Loren, John Travolta and Tony Bennett. But Frank Stella may be the only individual in the United States who could convince the ''Three Tenors,'' Luciano Pavarotti, Placido Domingo and Jose Carreras to make their only U.S. concert appearance this year (and one of only three worldwide) at Tiger Stadium in Detroit on July 17. This concert will not only be the rarest of treats for Metro Detroit music lovers, but it will also raise a significant amount of money for the Michigan Opera Theatre's $25 million capital campaign.

Mr. President, Frank Stella wears many hats, including those of a businessman, a humanitarian, a community leader and a father. But for those in attendance at Cobo Hall next Monday night, the most important hat that Frank wears is that of friend. The invitation to the gala encourages people to ''Please be Frank with us.'' But, as everyone knows, there is only one Frank Stella. I know my colleagues will join me in congratulating Frank on his years of success in so many arenas, and in thanking him for the truly remarkable contributions he has made to our country.●

TREATMENT OF RELIGIOUS MINORITIES IN THE ISLAMIC REPUBLIC OF IRAN

On June 23, 1999, the Senate passed S. Con. Res. 39, the text of which follows:

S. CON. RES. 39

Whereas 10 percent of the citizens of the Islamic Republic of Iran are members of religious minority groups;

Whereas, according to the State Department and internationally recognized human rights organizations, such as Human Rights Watch and Amnesty International, religious minorities in the Islamic Republic of Iran—including Sunni Muslims, Baha'is, Christians, and Jews—have been the victims of human rights violations solely because of their status as religious minorities;

Whereas the 55th session of the United Nations Commission on Human Rights passed Resolution 1999/13, which expresses the concern of the international community over ''continued discrimination against religious minorities'' in the Islamic Republic of Iran, and calls on that country to moderate its policy on religious minorities until they are ''completely emancipated'';

Whereas more than half the Jews in Iran have been forced to flee that country since the Islamic Revolution of 1979 because of religious persecution, and many of them now reside in the United States;

Whereas the Iranian Jewish community, with a 2,500-year history and currently numbering some 30,000 people, is the oldest Jewish community living in the Diaspora;

Whereas five Jews have been executed by the Iranian government in the past five years without having been tried;

Whereas there has been a noticeable increase recently in anti-Semitic propaganda in the government-controlled Iranian press;

Whereas, on the eve of the Jewish holiday of Passover 1999, thirteen or more Jews, including community and religious leaders in the city of Shiraz, were arrested by the authorities of the Islamic Republic of Iran; and

Whereas, in keeping with its dismal record on providing accused prisoners with due process and fair treatment, the Islamic Republic of Iran failed to charge the detained Jews with any specific crime or allow visitation by relatives of the detained for more than two months: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States should—

(1) continue to work through the United Nations to assure that the Islamic Republic of Iran implements the recommendations of resolution 1999/13;

(2) continue to condemn, in the strongest possible terms, the recent arrest of members of Iran's Jewish minority and urge their immediate release;

(3) urge all nations having relations with the Islamic Republic of Iran to condemn the treatment of religious minorities in Iran and call for the release of all prisoners held on the basis of their religious beliefs; and

(4) maintain the current United States policy toward the Islamic Republic of Iran unless and until that country moderates its treatment of religious minorities.

PLEDGE OF ALLEGIANCE

On June 23, 1999, the Senate passed S. Res. 113, the text of which follows:

S. RES. 113

Whereas the Flag of the United States of America is our Nation's most revered and preeminent symbol;

Whereas the Flag of the United States of America is recognized and respected throughout the world as a symbol of democracy, freedom, and human rights;

Whereas, in the words of the Chief Justice of the United States, the Flag of the United States of America ''in times of national crisis, inspires and motivates the average citizen to make personal sacrifices in order to achieve societal goals of overriding importance . . . and serves as a reminder of the paramount importance of pursuing the ideals that characterize our society'';

Whereas the House of Representatives of the United States has opened each of its daily sessions with the Pledge of Allegiance to the Flag of the United States of America since 1988; and

Whereas opening each of the daily sessions of the Senate of the United States with the Pledge of Allegiance to the Flag of the United States would demonstrate reverence for the Flag and serve as a daily reminder to all Senators of the ideals that it represents: Now, therefore, be it

Resolved, That paragraph 1(a) of rule IV of the Standing Rules of the Senate is amended by inserting after ''prayer by the Chaplain'' the following: ''and after the Presiding Officer, or a Senator designated by the Presiding

Officer, leads the Senate from the dais in reciting the Pledge of Allegiance to the Flag of the United States''.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2000 AND 2001

On June 22, 1999, the Senate passed S. 886, the text of which follows:

S. 886

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 ''Admiral James W. Nance Foreign Relations Authorization Act, Fiscal Years 2000 and 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Appropriate congressional committees defined.

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS FOR DEPARTMENT OF STATE

Sec. 101. Administration of Foreign Affairs.
Sec. 102. International Commissions.
Sec. 103. Migration and Refugee Assistance.
Sec. 104. United States informational, educational, and cultural programs.
Sec. 105. Grants to The Asia Foundation.

TITLE II—DEPARTMENT OF STATE BASIC AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

Sec. 201. Office of Children's Issues.
Sec. 202. Strengthening implementation of The Hague Convention on the Civil Aspects of International Child Abduction.
Sec. 203. Human rights reporting on the treatment of children.
Sec. 204. Study for establishment of Russian Democracy Foundation.
Sec. 205. Limitation on participation in international expositions.
Sec. 206. Inspector General for the Inter-American Foundation and the African Development Foundation.

Subtitle B—Consular Authorities

Sec. 211. Fees for machine readable visas.
Sec. 212. Fees relating to affidavits of support.
Sec. 213. Passport fees.
Sec. 214. Deaths and estates of United States citizens abroad.
Sec. 215. Major disasters and other incidents abroad affecting United States citizens.
Sec. 216. Mikey Kale Passport Notification Act of 1999.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

Subtitle A—Organization Matters

Sec. 301. Legislative liaison offices of the Department of State.
Sec. 302. State Department official for Northeastern Europe.
Sec. 303. Science and Technology Adviser to Secretary of State.

Subtitle B—Foreign Service Reform

Sec. 311. Findings.
Sec. 312. United States citizens hired abroad.
Sec. 313. Limitation on percentage of Senior Foreign Service eligible for performance pay.
Sec. 314. Placement of Senior Foreign Service personnel.
Sec. 315. Report on management training.
Sec. 316. Workforce planning for Foreign Service personnel by Federal agencies.
Sec. 317. Records of disciplinary actions.
Sec. 318. Limitation on salary and benefits for members of the Foreign Service recommended for separation for cause.
Sec. 319. Foreign language proficiency.
Sec. 320. Treatment of grievance records.
Sec. 321. Deadlines for filing grievances.
Sec. 322. Reports by the Foreign Service Grievance Board.
Sec. 323. Extension of use of foreign service personnel system.

Subtitle C—Other Personnel Matters

Sec. 331. Border equalization pay adjustment.
Sec. 332. Treatment of certain persons reemployed after service with international organizations.
Sec. 333. Home service transfer allowance.
Sec. 334. Parental choice in education.
Sec. 335. Medical emergency assistance.
Sec. 336. Report concerning financial disadvantages for administrative and technical personnel.
Sec. 337. State Department Inspector General and personnel investigations.

TITLE IV—EMBASSY SECURITY AND COUNTERTERRORISM MEASURES

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. United States diplomatic facility defined.
Sec. 404. Authorizations of appropriations.
Sec. 405. Obligations and expenditures.
Sec. 406. Security requirements for United States diplomatic facilities.
Sec. 407. Closure of vulnerable posts.
Sec. 408. Accountability Review Boards.
Sec. 409. Awards of Foreign Service stars.

TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

Sec. 501. Authorizations of appropriations.
Sec. 502. Reauthorization of Radio Free Asia.
Sec. 503. Nomination requirements for the Chairman of the Broadcasting Board of Governors.

TITLE VI—ARMS CONTROL, NONPROLIFERATION, AND NATIONAL SECURITY

Sec. 601. Short title.
Sec. 602. Definitions.

Subtitle A—Arms Control

CHAPTER 1—EFFECTIVE VERIFICATION OF COMPLIANCE WITH ARMS CONTROL AGREEMENTS

Sec. 611. Key Verification Assets Fund.
Sec. 612. Assistant Secretary of State for Verification and Compliance.
Sec. 613. Enhanced annual (''Pell'') report.
Sec. 614. Report on START and START II treaties monitoring issues.
Sec. 615. Standards for verification.
Sec. 616. Contribution to the advancement of seismology.
Sec. 617. Protection of United States companies.
Sec. 618. Preservation of the START Treaty verification regime.

CHAPTER 2—LANDMINE POLICY, DEMINING ACTIVITIES, AND RELATED MATTERS

Sec. 621. Conforming amendment.
Sec. 622. Development of Advanced Humanitarian Demining Capabilities Fund.

Subtitle B—Nuclear Nonproliferation, Safety, and Related Matters

Sec. 631. Reporting burden on United States nuclear industry.
Sec. 632. Authority to suspend nuclear cooperation for failure to ratify Convention on Nuclear Safety.
Sec. 633. Elimination of duplicative Government activities.
Sec. 634. Congressional notification of nonproliferation activities.
Sec. 635. Effective use of resources for nonproliferation programs.
Sec. 636. Disposition of weapons-grade material.
Sec. 637. Status of Hong Kong and Macao in United States export law.

Subtitle C—Miscellaneous Provisions

Sec. 641. Requirement for transmittal of summaries.
Sec. 642. Prohibition on withholding certain information from Congress.
Sec. 643. Reform of the Diplomatic Telecommunications Service Program Office.
Sec. 644. Sense of Congress on factors for consideration in negotiations with the Russian Federation on reductions in strategic nuclear forces.
Sec. 645. Clarification of exception to national security controls on satellite export licensing.
Sec. 646. Study on licensing process under the Arms Export Control Act.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—People's Republic of China

Sec. 701. Findings.
Sec. 702. Funding for additional personnel at diplomatic posts to report on political, economic, and human rights matters in the People's Republic of China.
Sec. 703. Prisoner Information Registry for the People's Republic of China.
Sec. 704. Report regarding establishment of Organization for Security and Cooperation in Asia.
Sec. 705. Sense of Congress regarding organ harvesting and transplanting in the People's Republic of China.

Subtitle B—Other Matters

Sec. 721. Denial of entry into United States of foreign nationals engaged in establishment or enforcement of forced abortion or sterilization policy.
Sec. 722. Semiannual reports on United States support for membership or participation of Taiwan in international organizations.
Sec. 723. Congressional policy regarding United Nations General Assembly Resolution ES–10/6.
Sec. 724. Waiver of certain prohibitions regarding the Palestine Liberation Organization.
Sec. 725. United States policy regarding Jerusalem as the capital of Israel.
Sec. 726. United States policy with respect to Nigeria.
Sec. 727. Partial liquidation of blocked Libyan assets.
Sec. 728. Support for refugees from Russia who choose to resettle in Israel.
Sec. 729. Sense of Congress regarding extradition of Lt. General Igor Giorgadze.
Sec. 730. Sense of Congress on the use of children as soldiers or other combatants in foreign armed forces.
Sec. 731. Technical corrections.
Sec. 732. Reports with respect to a referendum on Western Sahara.
Sec. 733. Self-determination in East Timor.
Sec. 734. Prohibition on the return of veterans memorial objects to foreign nations without specific authorization in law.
Sec. 735. Support for the peace process in Sudan.

Sec. 736. Expressing the sense of the Congress regarding the treatment of religious minorities in the Islamic Republic of Iran, and particularly the recent arrests of members of that country's Jewish community.
Sec. 737. Reporting requirements under PLO Commitments Compliance Act of 1989.
Sec. 738. Report on terrorist activity in which United States citizens were killed and related matters.
Sec. 739. Sense of Senate regarding child labor.
Sec. 740. Reporting requirement on worldwide circulation of small arms and light weapons.
Subtitle C—United States Entry-Exit Controls
Sec. 751. Amendment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
Sec. 752. Report on automated entry-exit control system.
Sec. 753. Annual reports on entry-exit control and use of entry-exit control data.
TITLE VIII—INTERNATIONAL ORGANIZATIONS AND COMMISSIONS
Subtitle A—Authorizations of Appropriations
Sec. 801. Contributions to international organizations.
Sec. 802. Contributions for international peacekeeping activities.
Sec. 803. Authorization of appropriations for contributions to the United Nations Voluntary Fund for Victims of Torture.
Subtitle B—United Nations Activities
Sec. 811. United Nations policy on Israel and the Palestinians.
Sec. 812. Data on costs incurred in support of United Nations peacekeeping operations.
Sec. 813. Reimbursement for goods and services provided by the United States to the United Nations.
Subtitle C—International Organizations Other Than the United Nations
Sec. 821. Restriction relating to United States accession to the International Criminal Court.
Sec. 822. Prohibition on extradition or transfer of United States citizens to the International Criminal Court.
Sec. 823. Permanent requirement for reports regarding foreign travel.
Sec. 824. Assistance to States and local governments by the International Boundary and Water Commission.
Sec. 825. United States representation at the International Atomic Energy Agency.
Sec. 826. Annual financial audits of United States section of the International Boundary and Water Commission.
Sec. 827. Sense of Congress concerning ICTR.
TITLE IX—ARREARS PAYMENTS AND REFORM
Subtitle A—General Provisions
Sec. 901. Short title.
Sec. 902. Definitions.
Subtitle B—Arrearages to the United Nations
CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS; OBLIGATION AND EXPENDITURE OF FUNDS
Sec. 911. Authorization of appropriations.
Sec. 912. Obligation and expenditure of funds.
Sec. 913. Forgiveness of amounts owed by the United Nations to the United States.
CHAPTER 2—UNITED STATES SOVEREIGNTY
Sec. 921. Certification requirements.
CHAPTER 3—REFORM OF ASSESSMENTS AND UNITED NATIONS PEACEKEEPING OPERATIONS
Sec. 931. Certification requirements.
CHAPTER 4—BUDGET AND PERSONNEL REFORM
Sec. 941. Certification requirements.
Subtitle C—Miscellaneous Provisions
Sec. 951. Statutory construction on relation to existing laws.
Sec. 952. Prohibition on payments relating to UNIDO and other international organizations from which the United States has withdrawn or rescinded funding.
TITLE IX—RUSSIAN BUSINESS MANAGEMENT EDUCATION
Sec. 1001. Purpose.
Sec. 1002. Definitions.
Sec. 1003. Authorization for training program and internships.
Sec. 1004. Applications for technical assistance.
Sec. 1005. United States-Russian business management training board.
Sec. 1006. Restrictions not applicable.
Sec. 1007. Authorization of appropriations.
Sec. 1008. Effective date.

SEC. 2. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

Except as otherwise provided in section 902(1), in this Act the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS FOR DEPARTMENT OF STATE

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—The following amounts are authorized to be appropriated for the Department of State under ''Administration of Foreign Affairs'' to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including public diplomacy activities and the diplomatic security program:

(1) DIPLOMATIC AND CONSULAR PROGRAMS.—For ''Diplomatic and Consular Programs'' of the Department of State, $2,837,772,000 for the fiscal year 2000 and $2,837,772,000 for the fiscal year 2001.

(2) CAPITAL INVESTMENT FUND.—For ''Capital Investment Fund'' of the Department of State, $90,000,000 for the fiscal year 2000 and $90,000,000 for the fiscal year 2001.

(3) SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS.—For ''Security and Maintenance of United States Missions'', $434,066,000 for the fiscal year 2000 and $434,066,000 for the fiscal year 2001.

(4) REPRESENTATION ALLOWANCES.—For ''Representation Allowances'', $5,850,000 for the fiscal year 2000 and $5,850,000 for the fiscal year 2001.

(5) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For ''Emergencies in the Diplomatic and Consular Service'', $17,000,000 for the fiscal year 2000 and $17,000,000 for the fiscal year 2001.

(6) OFFICE OF THE INSPECTOR GENERAL.—For ''Office of the Inspector General'', $30,054,000 for the fiscal year 2000 and $30,054,000 for the fiscal year 2001.

(7) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For ''Payment to the American Institute in Taiwan'', $15,760,000 for the fiscal year 2000 and $15,760,000 for the fiscal year 2001.

(8) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—

(A) AMOUNTS AUTHORIZED TO BE APPROPRIATED.—For ''Protection of Foreign Missions and Officials'', $9,490,000 for the fiscal year 2000 and $9,490,000 for the fiscal year 2001.

(B) AVAILABILITY OF FUNDS.—Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount was appropriated.

(9) REPATRIATION LOANS.—For ''Repatriation Loans'', $1,200,000 for the fiscal year 2000 and $1,200,000 for the fiscal year 2001, for administrative expenses.

(b) ALLOCATION OF FUNDS FOR COMMERCIAL LICENSES.—Of the funds made available to the Department of State under subsection (a)(1), $8,000,000 shall be made available only for the activities of the Office of Defense Trade Controls of the Department of State.

SEC. 102. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under ''International Commissions'' for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For ''International Boundary and Water Commission, United States and Mexico''—

(A) for ''Salaries and Expenses'', $20,413,000 for the fiscal year 2000 and $20,413,000 for the fiscal year 2001; and

(B) for ''Construction'', $8,435,000 for the fiscal year 2000 and $8,435,000 for the fiscal year 2001.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For ''International Boundary Commission, United States and Canada'', $859,000 for the fiscal year 2000 and $859,000 for the fiscal year 2001.

(3) INTERNATIONAL JOINT COMMISSION.—For ''International Joint Commission'', $3,819,000 for the fiscal year 2000 and $3,819,000 for the fiscal year 2001.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For ''International Fisheries Commissions'', $16,702,000 for the fiscal year 2000 and $16,702,000 for the fiscal year 2001.

SEC. 103. MIGRATION AND REFUGEE ASSISTANCE.

(a) MIGRATION AND REFUGEE ASSISTANCE.—There are authorized to be appropriated for ''Migration and Refugee Assistance'' for authorized activities, $660,000,000 for the fiscal year 2000 and $660,000,000 for the fiscal year 2001.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

SEC. 104. UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the ''Fulbright Academic Exchange Programs'' (other than programs described in subparagraph (B)), $112,000,000 for

the fiscal year 2000 and $112,000,000 for the fiscal year 2001.

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—For other educational and cultural exchange programs authorized by law, $98,329,000 for the fiscal year 2000 and $98,329,000 for the fiscal year 2001.

(2) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the ''Center for Cultural and Technical Interchange between East and West'', $12,500,000 for the fiscal year 2000 and $12,500,000 for the fiscal year 2001.

(3) NATIONAL ENDOWMENT FOR DEMOCRACY.—For the ''National Endowment for Democracy'', $31,000,000 for the fiscal year 2000 and $31,000,000 for the fiscal year 2001.

(4) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.—For ''Center for Cultural and Technical Interchange between North and South'' $1,750,000 for the fiscal year 2000 and $1,750,000 for the fiscal year 2001.

(b) EXCHANGES WITH RUSSIA.—

(1) MUSKIE FELLOWSHIPS.—Of the amounts authorized to be appropriated under subsection (a)(1)(B), $5,000,000 for each of the fiscal years 2000 and 2001 shall be available only to carry out the Edmund S. Muskie Fellowship Program under section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) with the Russian Federation.

(2) SENSE OF CONGRESS ON ALLOCATION OF RESOURCES FOR EXCHANGES WITH RUSSIA.—It is the sense of the Congress that educational and professional exchanges with the Russian Federation have proven to be an effective mechanism for enhancing democratization in that country and that, therefore, Congress should significantly increase the financial resources allocated for those programs.

(c) MUSKIE FELLOWSHIP DOCTORAL GRADUATE STUDIES FOR NATIONALS OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—

(1) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated under subsection (a)(1)(B), not less than $2,000,000 for fiscal year 2000, and not less than $2,000,000 for fiscal year 2001, shall be made available to provide scholarships for doctoral graduate study in the social sciences to nationals of the independent states of the former Soviet Union under the Edmund S. Muskie Fellowship Program authorized by section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note).

(2) REQUIREMENTS.—

(A) NON-FEDERAL SUPPORT.—Not less than 20 percent of the costs of each student's doctoral study supported under paragraph (1) shall be provided from non-Federal sources.

(B) HOME COUNTRY RESIDENCE REQUIREMENT.—

(i) AGREEMENT FOR SERVICE IN HOME COUNTRY.—Before an individual may receive scholarship assistance under paragraph (1), the individual shall enter into a written agreement with the Department of State under which the individual agrees that after completing all degree requirements, or terminating his or her studies, whichever occurs first, the individual will return to the country of the individual's nationality, or country of last habitual residence, within the independent states of the former Soviet Union (as defined in section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), to reside and remain physically present there for an aggregate of at least one year for each year of study supported under paragraph (1).

(ii) DENIAL OF ENTRY INTO THE UNITED STATES FOR NONCOMPLIANCE.—Any individual who has entered into an agreement under clause (i) and who has not completed the period of home country residence and presence required by that agreement shall be ineligible for a visa and inadmissible to the United States.

(d) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAM.—Of the amounts authorized to be appropriated under subsection (a)(1)(A), $5,000,000 for the fiscal year 2000 and $5,000,000 for the fiscal year 2001 shall be available only to carry out the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

SEC. 105. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98–164; 22 U.S.C. 4403) is amended to read as follows:

''SEC. 404. There are authorized to be appropriated to the Secretary of State $15,000,000 for each of the fiscal years 2000 and 2001 for grants to The Asia Foundation pursuant to this title.''.

TITLE II—DEPARTMENT OF STATE BASIC AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

SEC. 201. OFFICE OF CHILDREN'S ISSUES.

(a) DIRECTOR REQUIREMENTS.—At the earliest date practicable, the Secretary of State is requested to fill the position of Director of the Office of Children's Issues of the Department of State (in this section referred to as the ''Office'') with a career member of the Senior Executive Service. Effective January 1, 2001, only a career member of the Senior Executive Service may occupy the position of Director of the Office. In selecting an individual to fill the position of Director, the Secretary of State shall seek an individual who can assure long-term continuity in the management of the Office.

(b) CASE OFFICER STAFFING.—Effective April 1, 2000, there shall be assigned to the Office of Children's Issues of the Department of State a sufficient number of case officers to ensure that the average caseload for each officer does not exceed 75.

(c) EMBASSY CONTACT.—The Secretary of State shall designate in each United States diplomatic mission an employee who shall serve as the point of contact for matters relating to international abductions of children by parents. The Director of the Office shall regularly inform the designated employee of children of United States citizens abducted by parents to that country.

(d) COORDINATION.—

(1) PARTICULAR ABDUCTIONS.—Not later than 24 hours after notice of the possible abduction of a child by a parent to a location abroad has been submitted to the Department of State, the Secretary of State shall submit to the National Center for Missing and Exploited Children a report including the following:

(A) The name of the abducted child.

(B) The name and contact information of the parent or guardian who is searching for the child.

(C) The name and contact information for the law enforcement officials, including the agencies which employ the officials, assisting in the effort to return the child.

(D) The country to which the child is believed to have been abducted.

(E) The name of the person believed to have abducted the child.

(2) GENERAL CASE INFORMATION.—At least once every six months, the Secretary shall submit to the Center a report on the following:

(A) Any case of abduction of a child by a parent previously submitted to the Secretary that has been closed during the preceding six months, including the reason for closing the case.

(B) Any case for which the Department of State has received a request during such months for assistance from a parent concerned about preventing the abduction of a child to a location abroad.

(e) REPORTS TO PARENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), beginning 6 months after the date of enactment of this Act, and at least once every 6 months thereafter, the Secretary of State shall report to each parent who has requested assistance regarding an abducted child. Each such report shall include information on the current status of the abducted child's case and the efforts by the Department of State to resolve the case.

(2) EXCEPTION.—The requirement in paragraph (1) shall not apply in a case of an abducted child if—

(A) the case has been closed and the Secretary of State has reported the reason the case was closed to the parent who requested assistance; or

(B) the parent seeking assistance requests that such reports not be provided.

SEC. 202. STRENGTHENING IMPLEMENTATION OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.

(a) REPORTS ON COMPLIANCE WITH THE CONVENTION.—Section 2803(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105–277) is amended—

(1) in the first sentence, by striking ''during the period ending September 30, 1999'';

(2) in paragraph (4), by inserting before the period at the end the following: '', including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been abducted''; and

(3) by adding at the end the following new paragraph:

''(6) a description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of nongovernmental organizations within their countries that assist parents seeking the return of children under the Convention.''.

(b) COORDINATION IN THE UNITED STATES.—It is the sense of Congress that the Secretary of State should continue to work with the National Center for Missing and Exploited Children in the United States to assist parents seeking the return of, or access to, children brought to the United States in violation of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.

SEC. 203. HUMAN RIGHTS REPORTING ON THE TREATMENT OF CHILDREN.

(a) IN GENERAL.—It is the sense of Congress that the annual human rights report by the Department of State should include a section on each country regarding the treatment of children in that country.

(b) CONTENTS OF REPORT SECTIONS.—Each report section described in subsection (a) should include—

(1) a description of compliance by the country with the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(2) a description of the cooperation, or lack thereof, in resolving cases of abducted children by each country that is not a party to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the number of children who were abducted and remain in the country, with special emphasis on cases of more than one year in duration; and

(4) an identification of those cases that have resulted in the successful return of children.

SEC. 204. STUDY FOR ESTABLISHMENT OF RUSSIAN DEMOCRACY FOUNDATION.

(a) IN GENERAL.—The Secretary of State shall conduct a study of the feasibility of establishing a Russia-based foundation for the promotion of democratic institutions in the Russian Federation.

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated for the Department of State for fiscal year 2000, up to $50,000 shall be available to carry out this section.

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees setting forth the results of the study conducted under subsection (a).

SEC. 205. LIMITATION ON PARTICIPATION IN INTERNATIONAL EXPOSITIONS.

Section 230 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note) is amended—

(1) by striking ''Notwithstanding'' and inserting ''(a) LIMITATION.—Except as provided in subsection (b) and notwithstanding''; and

(2) by adding at the end the following:

''(b) EXCEPTIONS.—Notwithstanding subsection (a), the United States Information Agency may use funds to carry out any of its responsibilities—

''(1) under section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(3)) to provide for United States participation in international fairs and expositions abroad;

''(2) under section 105(f) of such Act (22 U.S.C. 2455(f)) with respect to encouraging foreign governments, international organizations, and private individuals, firms, associations, agencies, and other groups to participate in international fairs and expositions and to make contributions to be utilized for United States participation in international fairs and expositions; or

''(3) to facilitate support to the United States Commissioner General for participation in international fairs and expositions.

''(c) STATUTORY CONSTRUCTION.—Nothing in subsection (b) authorizes the use of funds available to the United States Information Agency to make any payment for—

''(1) any contract, grant, or other agreement with any other party to carry out any activity described in subsection (b); or

''(2) the satisfaction of any legal judgment or the cost of any litigation brought against the United States Information Agency arising from any activity described in subsection (b).''.

SEC. 206. INSPECTOR GENERAL FOR THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION.

Notwithstanding any other provision of law, the Inspector General of the Agency for International Development shall serve as the Inspector General of the Inter-American Foundation and the African Development Foundation and shall have all the authorities and responsibilities with respect to the Inter-American Foundation and the African Development Foundation as the Inspector General has with respect to the Agency for International Development.

Subtitle B—Consular Authorities

SEC. 211. FEES FOR MACHINE READABLE VISAS.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note) is amended—

(1) by striking the first sentence of paragraph (3), and inserting ''For each of the fiscal years 2000 and 2001, any amount collected under paragraph (1) that exceeds $300,000,000 may be made available for the purposes of paragraph (2) only if a notification is submitted to Congress in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).''; and

(2) by striking paragraphs (4) and (5).

SEC. 212. FEES RELATING TO AFFIDAVITS OF SUPPORT.

(a) AUTHORITY TO CHARGE FEE.—The Secretary of State may charge and retain a fee or surcharge for services provided by the Department of State to any sponsor who provides an affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) to ensure that such affidavit is properly completed before it is forwarded to a consular post for adjudication by a consular officer in connection with the adjudication of an immigrant visa. Such fee or surcharge shall be in addition to and separate from any fee imposed for immigrant visa application processing and issuance, and shall recover only the costs of such services not recovered by such fee.

(b) LIMITATION.—Any fee established under subsection (a) shall be charged only once to a sponsor who files essentially duplicative affidavits of support in connection with separate immigrant visa applications from the spouse and children of any petitioner required by the Immigration and Nationality Act to petition separately for such persons.

(c) TREATMENT OF FEES.—Fees collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing consular services.

(d) COMPLIANCE WITH BUDGET ACT.—Fees may be collected under the authority of subsection (a) only to such extent or in such amounts as are provided in advance in an appropriation Act.

SEC. 213. PASSPORT FEES.

(a) APPLICATIONS.—Section 1 of the Passport Act of June 4, 1920 (22 U.S.C. 214), is amended—

(1) in the first sentence—

(A) by striking ''each passport issued'' and inserting ''the filing of each application for a passport (including the cost of passport issuance and use)''; and

(B) by striking ''each application for a passport;'' and inserting ''each such application''; and

(2) by adding after the first sentence the following new sentence: ''Such fees shall not be refundable, except as the Secretary may by regulation prescribe.''.

(b) REPEAL OF OUTDATED PROVISION ON PASSPORT FEES.—Section 4 of the Passport Act of June 4, 1920 (22 U.S.C. 216) is repealed.

SEC. 214. DEATHS AND ESTATES OF UNITED STATES CITIZENS ABROAD.

(a) REPEAL.—Section 1709 of the Revised Statutes (22 U.S.C. 4195) is repealed.

(b) AMENDMENT TO STATE DEPARTMENT BASIC AUTHORITIES ACT.—The State Department Basic Authorities Act of 1956 is amended by inserting after section 43 (22 U.S.C. 2715) the following new sections:

''SEC. 43A. NOTIFICATION OF NEXT OF KIN; REPORTS OF DEATH.

''(a) IN GENERAL.—Whenever a United States citizen or national dies abroad, a consular officer shall endeavor to notify, or assist the Secretary of State in notifying, the next of kin or legal guardian as soon as possible, except that, in the case of death of any Peace Corps volunteer (within the meaning of section 5(a) of the Peace Corps Act (22 U.S.C. 2504(a)), any member of the Armed Forces, any dependent of such a volunteer or member, or any Department of Defense employee, the consular officer shall assist the Peace Corps or the appropriate military authorities, as the case may be, in making such notifications.

''(b) REPORTS OF DEATH OR PRESUMPTIVE DEATH.—The consular officer may, for any United States citizen who dies abroad—

''(1) in the case of a finding of death by the appropriate local authorities, issue a report of death or of presumptive death; or

''(2) in the absence of a finding of death by the appropriate local authorities, issue a report of presumptive death.

''(c) IMPLEMENTING REGULATIONS.—The Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

''SEC. 43B. CONSERVATION AND DISPOSITION OF ESTATES.

''(a) CONSERVATION OF ESTATES ABROAD.—

''(1) AUTHORITY TO ACT AS CONSERVATOR.—Whenever a United States citizen or national dies abroad, a consular officer shall act as the provisional conservator of the portion of the decedent's estate located abroad and, subject to paragraphs (3), (4), and (5), shall—

''(A) take possession of the personal effects of the decedent within his jurisdiction;

''(B) inventory and appraise the personal effects of the decedent, sign the inventory, and annex thereto a certificate as to the accuracy of the inventory and appraised value of each article;

''(C) when appropriate in the exercise of prudent administration, collect the debts due to the decedent in the officer's jurisdiction and pay from the estate the obligations owed by the decedent;

''(D) sell or dispose of, as appropriate, in the exercise of prudent administration, all perishable items of property;

''(E) sell, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, such additional items of property as necessary to provide funds sufficient to pay the decedent's debts and property taxes in the country of death, funeral expenses, and other expenses incident to the disposition of the estate;

''(F) upon the expiration of the one-year period beginning on the date of death (or after such additional period as may be required for final settlement of the estate), if no claimant shall have appeared, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, sell or dispose of the residue of the personal estate, except as provided in subparagraph (G), in the same manner as United States Government-owned foreign excess property;

''(G) transmit to the custody of the Secretary of State in Washington, D.C. the proceeds of any sales, together with all financial instruments (including bonds, shares of stock, and notes of indebtedness), jewelry, heirlooms, and other articles of obvious sentimental value, to be held in trust for the legal claimant; and

''(H) in the event that the decedent's estate includes an interest in real property located within the jurisdiction of the officer and such interest does not devolve by the applicable laws of intestate succession or otherwise, provide for title to the property to be conveyed to the Government of the United States unless the Secretary declines to accept such conveyance.

''(2) AUTHORITY TO ACT AS ADMINISTRATOR.—Subject to paragraphs (3) and (4), a consular officer may act as administrator of an estate in exceptional circumstances if expressly authorized to do so by the Secretary of State.

''(3) EXCEPTIONS.—The responsibilities described in paragraphs (1) and (2) may not be performed to the extent that the decedent has left or there is otherwise appointed, in the country where the death occurred or where the decedent was domiciled, a legal representative, partner in trade, or trustee appointed to take care of his personal estate.

If the decedent's legal representative shall appear at any time prior to transmission of the estate to the Secretary and demand the proceeds and effects being held by the consular officer, the officer shall deliver them to the representative after having collected any prescribed fee for the services performed under this section.

''(4) ADDITIONAL REQUIREMENT.—In addition to being subject to the limitations in paragraph (3), the responsibilities described in paragraphs (1) and (2) may not be performed unless—

''(A) authorized by treaty provisions or permitted by the laws or authorities of the country wherein the death occurs, or the decedent is domiciled; or

''(B) permitted by established usage in that country.

''(5) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or otherwise affects the authority of any military commander under title 10 of the United States Code with respect to the person or property of any decedent who died while under a military command or jurisdiction or the authority of the Peace Corps with respect to a Peace Corps volunteer or the volunteer's property.

''(b) DISPOSITION OF ESTATES BY THE SECRETARY OF STATE.—

''(1) PERSONAL ESTATES.—

''(A) IN GENERAL.—After receipt of a personal estate pursuant to subsection (a), the Secretary may seek payment of all outstanding debts to the estate as they become due, may receive any balances due on such estate, may endorse all checks, bills of exchange, promissory notes, and other instruments of indebtedness payable to the estate for the benefit thereof, and may take such other action as is reasonably necessary for the conservation of the estate.

''(B) DISPOSITION AS SURPLUS UNITED STATES PROPERTY.—If, upon the expiration of a period of 5 fiscal years beginning on October 1 after a consular officer takes possession of a personal estate under subsection (a), no legal claimant for such estate has appeared, title to the estate shall be conveyed to the United States, the property in the estate shall be under the custody of the Department of State, and the Secretary shall dispose of the estate in the same manner as surplus United States Government-owned property is disposed or by such means as may be appropriate in light of the nature and value of the property involved. The expenses of sales shall be paid from the estate, and any lawful claim received thereafter shall be payable to the extent of the value of the net proceeds of the estate as a refund from the appropriate Treasury appropriations account.

''(C) TRANSFER OF PROCEEDS.—The net cash estate after disposition as provided in subparagraph (B) shall be transferred to the miscellaneous receipts account of the Treasury of the United States.

''(2) REAL PROPERTY.—

''(A) DESIGNATION AS EXCESS PROPERTY.—In the event that title to real property is conveyed to the Government of the United States pursuant to subsection (a)(1)(H) and is not required by the Department of State, such property shall be considered foreign excess property under title IV of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 511 et seq.).

''(B) TREATMENT AS GIFT.—In the event that the Department requires such property, the Secretary of State shall treat such property as if it were an unconditional gift accepted on behalf of the Department of State under section 25 of this Act and section 9(a)(3) of the Foreign Service Buildings Act of 1926.

''(c) LOSSES IN CONNECTION WITH THE CONSERVATION OF ESTATES.—

''(1) AUTHORITY TO COMPENSATE.—The Secretary is authorized to compensate the estate of any United States citizen who has died overseas for property—

''(A) the conservation of which has been undertaken under section 43 or subsection (a) of this section; and

''(B) that has been lost, stolen, or destroyed while in the custody of officers or employees of the Department of State.

''(2) LIABILITY.—

''(A) EXCLUSION OF PERSONAL LIABILITY AFTER PROVISION OF COMPENSATION.—Any such compensation shall be in lieu of personal liability of officers or employees of the Department of State.

''(B) LIABILITY TO THE DEPARTMENT.—An officer or employee of the Department of State may be liable to the Department of State to the extent of any compensation provided under paragraph (1).

''(C) DETERMINATIONS OF LIABILITY.—The liability of any officer or employee of the Department of State to the Department for any payment made under subsection (a) shall be determined pursuant to the Department's procedures for determining accountability for United States Government property.

''(d) REGULATIONS.—The Secretary of State may prescribe such regulations as may be necessary to carry out this section.''.

(c) EFFECTIVE DATE.—The repeal and amendment made by this section shall take effect six months after the date of enactment of this Act.

SEC. 215. MAJOR DISASTERS AND OTHER INCIDENTS ABROAD AFFECTING UNITED STATES CITIZENS.

Section 43 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2715) is amended—

(1) by inserting ''(a) AUTHORITY.—'' before ''In'';

(2) by striking ''disposition of personal effects'' in the last sentence and inserting ''disposition of personal estates pursuant to section 43B''; and

(3) by adding at the end the following new subsection:

''(b) DEFINITIONS.—For purposes of this section and sections 43A and 43B, the term 'consular officer' includes any United States citizen employee of the Department of State who is designated by the Secretary of State to perform consular services pursuant to such regulations as the Secretary may prescribe.''.

SEC. 216. MIKEY KALE PASSPORT NOTIFICATION ACT OF 1999.

(a) Not later than 180 days after the enactment of this Act, the Secretary of State shall issue regulations that—

(1) provide that, in the issuance of a passport to minors under the age of 18 years, both parents, a guardian, or a person in loco parentis have—

(A) executed the application; and

(B) provided documentary evidence demonstrating that they are the parents, guardian, or person in loco parentis; and

(2) provide that, in the issuance of a passport to minors under the age of 18 years, in those cases where both parents have not executed the passport application, the person executing the application has provided documentary evidence that such person—

(A) has sole custody of the child; or

(B) the other parent has provided consent to the issuance of the passport.

The requirement of this paragraph shall not apply to guardians or persons in loco parentis.

(b) The regulations required to be issued by this section may provide for exceptions in exigent circumstances involving the health or welfare of the child.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

Subtitle A—Organization Matters

SEC. 301. LEGISLATIVE LIAISON OFFICES OF THE DEPARTMENT OF STATE.

(a) DEVELOPMENT OF PLAN.—The Secretary of State shall develop a plan for the establishment of legislative liaison offices for the Department of State within the office buildings of the House of Representatives and the Senate. In developing the plan, the Secretary should examine existing liaison offices of other executive departments that are located in the congressional office buildings, including the liaison offices of the military services.

(b) PLAN ELEMENTS.—The plan developed under subsection (a) shall consider—

(1) space requirements;

(2) cost implications;

(3) personnel structure; and

(4) the feasibility of modifying the Pearson Fellowship program in order to require members of the Foreign Service who serve in such fellowships to serve a second year in a legislative liaison office.

(c) TRANSMITTAL OF PLAN.—Not later than October 1, 1999, the Secretary of State shall submit to the Committee on International Relations and the Committee on House Administration of the House of Representatives and the Committee on Foreign Relations and the Committee on Rules and Administration of the Senate the plan developed under subsection (a).

SEC. 302. STATE DEPARTMENT OFFICIAL FOR NORTHEASTERN EUROPE.

The Secretary of State shall designate an existing senior-level official of the Department of State with responsibility for promoting regional cooperation in and coordinating United States policy toward Northeastern Europe.

SEC. 303. SCIENCE AND TECHNOLOGY ADVISER TO SECRETARY OF STATE.

(a) ESTABLISHMENT OF POSITION.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection:

''(g) SCIENCE AND TECHNOLOGY ADVISER.—

''(1) IN GENERAL.—There shall be within the Department of State a Science and Technology Adviser (in this paragraph referred to as the 'Adviser'). The Adviser shall report to the Secretary of State through the Under Secretary of State for Global Affairs.

''(2) DUTIES.—The Adviser shall—

''(A) advise the Secretary of State, through the Under Secretary of State for Global Affairs, on international science and technology matters affecting the foreign policy of the United States; and

''(B) perform such duties, exercise such powers, and have such rank and status as the Secretary of State shall prescribe.''.

(b) REPORT.—Not later than six months after receipt by the Secretary of State of the report by the National Research Council of the National Academy of Sciences with respect to the contributions that science, technology, and health matters can make to the foreign policy of the United States, the Secretary of State, acting through the Under Secretary of State for Global Affairs, shall submit a report to Congress setting forth the Secretary of State's plans for implementation, as appropriate, of the recommendations of the report.

Subtitle B—Foreign Service Reform

SEC. 311. FINDINGS.

Congress makes the following findings:

(1) To carry out its international relations and diplomacy, the United States has relied on a professional career Foreign Service that was established by law in 1924.

(2) The Foreign Service Act of 1980 accurately states that the United States career foreign service is essential to the national interest in that it assists the President and the Secretary of State in conducting the foreign affairs of the United States.

(3) The career Foreign Service is premised on a membership that is characterized by excellence, intelligence, professionalism, and integrity.

(4) Ethical, professional, and financial misconduct by career members of the Foreign Service, while uncommon, must be met with fair but swift disciplinary action. A failure to adequately discipline, and in some cases remove from the Foreign Service, those career members who violate laws or regulations would erode the qualities of excellence required of United States Foreign Service members.

(5) Retention of members of the Foreign Service who do not meet high standards of conduct would in the long term harm important national interests of the United States.

SEC. 312. UNITED STATES CITIZENS HIRED ABROAD.

Section 408(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3968(a)(1)) is amended in the last sentence—

(1) by striking ''(A)'' and all that follows through ''(B)''; and

(2) by striking ''this total compensation package'' and insert ''the compensation plan''.

SEC. 313. LIMITATION ON PERCENTAGE OF SENIOR FOREIGN SERVICE ELIGIBLE FOR PERFORMANCE PAY.

Section 405(b)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)(1)) is amended by striking ''50'' and inserting ''33''.

SEC. 314. PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.

The Director General of the Foreign Service shall submit a report on the first day of each fiscal quarter to the appropriate congressional committees containing the following:

(1) The number of members of the Senior Foreign Service.

(2) The number of vacant positions designated for members of the Senior Foreign Service.

(3) The number of members of the Senior Foreign Service who are not assigned to positions.

SEC. 315. REPORT ON MANAGEMENT TRAINING.

Not later than February 1, 2000, the Department of State shall report to the appropriate congressional committees on the feasibility of modifying current training programs and curricula so that the Department can provide significant and comprehensive management training at all career grades for Foreign Service personnel.

SEC. 316. WORKFORCE PLANNING FOR FOREIGN SERVICE PERSONNEL BY FEDERAL AGENCIES.

Section 601(c) of the Foreign Service Act of 1980 (22 U.S.C. 4001(c)) is amended by striking paragraph (4) and inserting the following:

''(4) Not later than March 1, 2001, and every four years thereafter, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall include the following:

''(A) A description of the steps taken and planned in furtherance of—

''(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

''(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204.

''(B) A workforce plan for the subsequent five years, including projected personnel needs, by grade and by skill. Each such plan shall include for each category the needs for foreign language proficiency, geographic and functional expertise, and specialist technical skills. Each workforce plan shall specifically account for the training needs of Foreign Service personnel and shall delineate an intake program of generalist and specialist Foreign Service personnel to meet projected future requirements.

''(5) If there are substantial modifications to any workforce plan under paragraph (4)(B) during any year in which a report under paragraph (4) is not required, a supplemental annual notification shall be submitted in the same manner as reports are required to be submitted under paragraph (4).''.

SEC. 317. RECORDS OF DISCIPLINARY ACTIONS.

(a) IN GENERAL.—Section 604 of the Foreign Service Act of 1980 (22 U.S.C. 4004) is amended—

(1) by striking ''CONFIDENTIALITY OF RECORDS.—'' and inserting ''RECORDS.—(a)''; and

(2) by adding at the end the following new subsection:

''(b) Notwithstanding subsection (a), any record of disciplinary action that includes a suspension of more than five days taken against a member of the Service, including any correction of that record under section 1107(b)(1), shall remain a part of the personnel records until the member is tenured as a career member of the Service or next promoted.''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to all disciplinary actions initiated on or after the date of enactment of this Act.

SEC. 318. LIMITATION ON SALARY AND BENEFITS FOR MEMBERS OF THE FOREIGN SERVICE RECOMMENDED FOR SEPARATION FOR CAUSE.

Section 610(a) of the Foreign Service Act (22 U.S.C. 4010(a)) is amended by adding at the end the following new paragraph:

''(6) Notwithstanding the hearing required by paragraph (2), at the time the Secretary recommends that a member of the Service be separated for cause, that member shall be placed on leave without pay pending final resolution of the underlying matter, subject to reinstatement with back pay if cause for separation is not established in a hearing before the Board.''.

SEC. 319. FOREIGN LANGUAGE PROFICIENCY.

(a) REPORT ON LANGUAGE PROFICIENCY.—Section 702 of the Foreign Service Act of 1980 (22 U.S.C. 4022) is amended by adding at the end the following new subsection:

''(c) Not later than March 31 of each year, the Director General of the Foreign Service shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives summarizing the number of positions in each overseas mission requiring foreign language competence that—

''(1) became vacant during the previous calendar year; and

''(2) were filled by individuals having the required foreign language competence.''.

(b) REPEAL.—Section 304(c) of the Foreign Service Act of 1980 (22 U.S.C. 3944(c)) is repealed.

SEC. 320. TREATMENT OF GRIEVANCE RECORDS.

Section 1103(d)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4133(d)(1)) is amended by adding at the end the following new sentence: ''Nothing in this subsection prevents a grievant from placing in the grievant's personnel records a rebuttal to accompany a record of disciplinary action, nor prevents the Department from placing in the file a statement that the disciplinary action has been reviewed and upheld by the Foreign Service Grievance Board.''.

SEC. 321. DEADLINES FOR FILING GRIEVANCES.

(a) IN GENERAL.—Section 1104(a) of the Foreign Service Act of 1980 (22 U.S.C. 4134(a)) is amended in the first sentence by striking ''within a period of 3 years'' and all that follows through the period and inserting ''not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant's rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case less than two years after the occurrence giving rise to the grievance.''.

(b) GRIEVANCES ALLEGING DISCRIMINATION.—Section 1104 of that Act (22 U.S.C. 4134) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act and shall apply to grievances which arise on or after such effective date.

SEC. 322. REPORTS BY THE FOREIGN SERVICE GRIEVANCE BOARD.

Section 1105 of the Foreign Service Act of 1980 (22 U.S.C. 4135) is amended by adding the following new subsection:

''(f)(1) Not later than March 1 of each year, the Chairman of the Foreign Service Grievance Board shall prepare a report summarizing the activities of the Board during the previous calendar year. The report shall include—

''(A) the number of cases filed;

''(B) the types of cases filed;

''(C) the number of cases on which a final decision was reached, as well as data on the outcome of cases, whether affirmed, reversed, settled, withdrawn, or dismissed;

''(D) the number of oral hearings conducted and the length of each such hearing;

''(E) the number of instances in which interim relief was granted by the Board; and

''(F) data on the average time for consideration of a grievance, from the time of filing to a decision of the Board.

''(2) The report required under paragraph (1) shall be submitted to the Director General of the Foreign Service and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.''.

SEC. 323. EXTENSION OF USE OF FOREIGN SERVICE PERSONNEL SYSTEM.

Section 202(a) of the Foreign Service Act of 1980 (22 U.S.C. 3922(a)) is amended by adding at the end the following new paragraph:

''(4)(A) Whenever (and to the extent) the Secretary of State considers it in the best interests of the United States Government, the Secretary of State may authorize the head of any agency or other Government establishment (including any establishment in the legislative or judicial branch) to appoint under section 303 individuals described in subparagraph (B) as members of the Service and to utilize the Foreign Service personnel system with respect to such individuals under such regulations as the Secretary of State may prescribe.

''(B) The individuals referred to in subparagraph (A) are individuals hired for employment abroad under section 311(a).''.

Subtitle C—Other Personnel Matters

SEC. 331. BORDER EQUALIZATION PAY ADJUSTMENT.

(a) IN GENERAL.—Chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 et seq.) is amended by adding at the end the following new section:

''SEC. 414. BORDER EQUALIZATION PAY ADJUSTMENT.

''(a) IN GENERAL.—An employee who regularly commutes from the employee's place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization pay adjustment equal to the amount of comparability payments under section 5304 of

title 5, United States Code, that the employee would receive if the employee were assigned to an official duty station within the United States locality pay area closest to the employee's official duty station.

''(b) EMPLOYEE DEFINED.—For purposes of this section, the term 'employee' means a person who—

''(1) is an 'employee' as defined under section 2105 of title 5, United States Code; and

''(2) is employed by the Department of State, the United States Agency for International Development, or the International Joint Commission of the United States and Canada (established under Article VII of the treaty signed January 11, 1909) (36 Stat. 2448), except that the term shall not include members of the Service (as specified in section 103).

''(c) TREATMENT AS BASIC PAY.—An equalization pay adjustment paid under this section shall be considered to be part of basic pay for the same purposes for which comparability payments are considered to be part of basic pay under section 5304 of title 5, United States Code.

''(d) REGULATIONS.—The heads of the agencies referred to in subsection (b)(2) may prescribe regulations to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Foreign Service Act of 1980 is amended by inserting after the item relating to section 413 the following new item:

''Sec. 414. Border equalization pay adjustment.''.

SEC. 332. TREATMENT OF CERTAIN PERSONS REEMPLOYED AFTER SERVICE WITH INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Title 5 of the United States Code is amended by inserting after section 8432b the following new section:

''§ 8432c. Contributions of certain persons reemployed after service with international organizations

''(a) In this section, the term 'covered person' means any person who—

''(1) transfers from a position of employment covered by chapter 83 or 84 or subchapter I or II of chapter 8 of the Foreign Service Act of 1980 to a position of employment with an international organization pursuant to section 3582;

''(2) pursuant to section 3582 elects to retain coverage, rights, and benefits under any system established by law for the retirement of persons during the period of employment with the international organization and currently deposits the necessary deductions in payment for such coverage, rights, and benefits in the system's fund; and

''(3) is reemployed pursuant to section 3582(b) to a position covered by chapter 83 or 84 or subchapter I or II of chapter 8 of the Foreign Service Act of 1980 after separation from the international organization.

''(b)(1) Each covered person may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

''(2) The maximum amount which a covered person may contribute under paragraph (1) is equal to—

''(A) the total amount of all contributions under section 8351(b)(2) or 8432(a), as applicable, which the person would have made over the period beginning on the date of transfer of the person (as described in subsection (a)(1)) and ending on the day before the date of reemployment of the person (as described in subsection (a)(3)), minus

''(B) the total amount of all contributions, if any, under section 8351(b)(2) or 8432(a), as applicable, actually made by the person over the period described in subparagraph (A).

''(3) Contributions under paragraph (1)—

''(A) shall be made at the same time and in the same manner as would any contributions under section 8351(b)(2) or 8432(a), as applicable;

''(B) shall be made over the period of time specified by the person under paragraph (4)(B); and

''(C) shall be in addition to any contributions actually being made by the person during that period under section 8351(b)(2) or 8432(a), as applicable.

''(4) The Executive Director shall prescribe the time, form, and manner in which a covered person may specify—

''(A) the total amount the person wishes to contribute with respect to any period described in paragraph (2)(A); and

''(B) the period of time over which the covered person wishes to make contributions under this subsection.

''(c) If a covered person who makes contributions under section 8432(a) makes contributions under subsection (b), the agency employing the person shall make those contributions to the Thrift Savings Fund on the person's behalf in the same manner as contributions are made for an employee described in section 8432b(a) under sections 8432b(c), 8432b(d), and 8432b(f). Amounts paid under this subsection shall be paid in the same manner as amounts are paid under section 8432b(g).

''(d) For purposes of any computation under this section, a covered person shall, with respect to the period described in subsection (b)(2)(A), be considered to have been paid at the rate which would have been payable over such period had the person remained continuously employed in the position that the person last held before transferring to the international organization.

''(e) For purposes of section 8432(g), a covered person shall be credited with a period of civilian service equal to the period beginning on the date of transfer of the person (as described in subsection (a)(1)) and ending on the day before the date of reemployment of the person (as described in subsection (a)(3)).

''(f) The Executive Director shall prescribe regulations to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432b the following:

''8432c. Contributions of certain persons reemployed after service with international organizations.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons reemployed on or after the date of enactment of this Act.

SEC. 333. HOME SERVICE TRANSFER ALLOWANCE.

Section 5922 of title 5, United States Code is amended by adding at the end the following new subsection:

''(f) Upon the death of an employee, a transfer allowance under section 5924(2)(B) may be furnished to any spouse or dependent of such employee for the purpose of returning such spouse or dependent to the United States.''.

SEC. 334. PARENTAL CHOICE IN EDUCATION.

Section 5924(4) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking ''between that post and the nearest locality where adequate schools are available,'' and inserting ''between that post and the school chosen by the employee, not to exceed the total cost to the Government of the dependent attending an adequate school in the nearest locality where an adequate school is available,''; and

(2) by adding at the end the following new subparagraph:

''(C) In those cases in which an adequate school is available at the post of the employee, if the employee chooses to educate the dependent at a school away from post, the education allowance which includes board and room, and periodic travel between the post and the school chosen, shall not exceed the total cost to the Government of the dependent attending an adequate school at the post of the employee.''.

SEC. 335. MEDICAL EMERGENCY ASSISTANCE.

Section 5927 of title 5, United States Code, is amended—

(1) by inserting ''(a)'' before ''Up''; and

(2) by adding at the end the following:

''(b)(1) Subject to paragraph (2), up to three months' pay may be paid in advance to—

''(A) a United States citizen employee of an agency (other than a United States citizen employed under section 311(a) of the Foreign Service Act of 1980 (22 U.S.C. 3951(a))—

''(i) who is assigned or located outside of the United States pursuant to Government authorization; and

''(ii) who must, or has a family member who must, undergo outside of the United States medical treatment of the nature specified in regulations promulgated by the Secretary of State; and

''(B) each foreign national employee appointed under section 303 of the Foreign Service Act of 1980 (22 U.S.C. 3943) and each United States citizen employed under section 311(a) of that Act (22 U.S.C. 3951(a)) who is not a family member of a government employee assigned abroad—

''(i) who is located outside of the country of employment pursuant to United States Government authorization; and

''(ii) who must undergo outside the country of employment medical treatment of the nature specified in regulations promulgated by the Secretary of State.

''(2) Not more than 3 months pay may be advanced to an employee with respect to any single illness or injury, without regard to the number of courses of medical treatment required by the employee.

''(3)(A) Subject to the adjustment of the account of an employee under subparagraph (B) and other applicable provisions of law, the amount paid to an employee in advance shall be equal to the rate of pay authorized with respect to the employee on the date the advance payment is made under agency procedures governing other advance payments permitted under this subchapter.

''(B) The head of each agency shall provide for—

''(i) the review of the account of each employee of the agency who receives any advance payment under this section; and

''(ii) the recovery of the amount of pay or waiver thereof.

''(4) For the purposes of this subsection, the term 'country of employment' means the country outside the United States where the employee was appointed for employment or employed by the United States Government.''.

SEC. 336. REPORT CONCERNING FINANCIAL DISADVANTAGES FOR ADMINISTRATIVE AND TECHNICAL PERSONNEL.

(a) FINDINGS.—Congress finds that administrative and technical personnel posted to United States missions abroad who do not have diplomatic status suffer financial disadvantages from their lack of such status.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees concerning the extent to which administrative and technical personnel posted to United States missions abroad who do not have diplomatic status suffer financial disadvantages from their lack of such status, including proposals to alleviate such disadvantages.

SEC. 337. STATE DEPARTMENT INSPECTOR GENERAL AND PERSONNEL INVESTIGATIONS.

(a) AMENDMENT OF THE FOREIGN SERVICE ACT of 1980.—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

''(5) INVESTIGATIONS.—

''(A) CONDUCT OF INVESTIGATIONS.—In conducting investigations of potential violations of Federal criminal law or Federal regulations, the Inspector General shall—

''(i) abide by professional standards applicable to Federal law enforcement agencies; and

''(ii) permit each subject of an investigation an opportunity to provide exculpatory information.

''(B) REPORTS OF INVESTIGATIONS.—In order to ensure that reports of investigations are thorough and accurate, the Inspector General shall—

''(i) make every reasonable effort to ensure that any person named in a report of investigation has been afforded an opportunity to refute any allegation or assertion made regarding that person's actions;

''(ii) include in every report of investigation any exculpatory information, as well as any inculpatory information, that has been discovered in the course of the investigation.''.

(b) ANNUAL REPORT.—Section 209(d)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(3) by inserting after subparagraph (E) the following new subparagraph:

''(F) a description, which may be included, if necessary, in the classified portion of the report, of any instance in a case that was closed during the period covered by the report when the Inspector General decided not to afford an individual the opportunity described in subsection (c)(5)(B)(i) to refute any allegation or assertion, and the rationale for denying such individual that opportunity.''.

(c) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section may be construed to modify—

(1) section 209(d)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(4));

(2) section 7(b) of the Inspector General Act of 1978 (5 U.S.C. app.);

(3) the Privacy Act of 1974 (5 U.S.C. 552a); or

(4) the provisions of section 2302(b)(8) of title 5 (relating to whistleblower protection).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cases opened on or after the date of the enactment of this Act.

TITLE IV—EMBASSY SECURITY AND COUNTERTERRORISM MEASURES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Secure Embassy Construction and Counterterrorism Act of 1999''.

SEC. 402. FINDINGS.

Congress makes the following findings:

(1) On August 7, 1998, the United States embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, were destroyed by simultaneously exploding bombs. The resulting explosions killed 220 persons and injured more than 4,000 others. Twelve Americans and 40 Kenyan and Tanzanian employees of the United States Foreign Service were killed in the attack.

(2) The United States personnel in both Dar es Salaam and Nairobi showed leadership and personal courage in their response to the attacks. Despite the havoc wreaked upon the embassies, staff in both embassies provided rapid response in locating and rescuing victims, providing emergency assistance, and quickly restoring embassy operations during a crisis.

(3) The bombs are believed to have been set by individuals associated with Osama bin Laden, leader of a known transnational terrorist organization. In February 1998, bin Laden issued a directive to his followers that called for attacks against United States interests anywhere in the world.

(4) Following the bombings, additional threats have been made against United States diplomatic facilities.

(5) Accountability Review Boards were convened following the bombings, as required by Public Law 99–399, chaired by Admiral William J. Crowe, United States Navy (Ret.) (in this section referred to as the ''Crowe panels'').

(6) The conclusions of the Crowe panels were strikingly similar to those stated by the Commission chaired by Admiral Bobby Ray Inman, which issued an extensive embassy security report more than 14 years ago.

(7) The Crowe panels issued a report setting out many problems with security at United States diplomatic facilities, in particular the following:

(A) The United States Government has devoted inadequate resources to security against terrorist attacks.

(B) The United States Government places too low a priority on security concerns.

(8) The result has been a failure to take adequate steps to prevent tragedies such as the bombings in Kenya and Tanzania.

(9) The Crowe panels found that there was an institutional failure on the part of the Department of State to recognize threats posed by transnational terrorism and vehicular bombs.

(10) Responsibility for ensuring adequate resources for security programs is widely shared throughout the United States Government, including Congress. Unless the vulnerabilities identified by the Crowe panels are addressed in a sustained and financially realistic manner, the lives and safety of United States employees in diplomatic facilities will continue to be at risk from further terrorist attacks.

(11) Although service in the Foreign Service or other United States Government positions abroad can never be completely without risk, the United States Government must take all reasonable steps to minimize security risks.

SEC. 403. UNITED STATES DIPLOMATIC FACILITY DEFINED.

In this title, the terms ''United States diplomatic facility'' and ''diplomatic facility'' mean any chancery, consulate, or other office building used by a United States diplomatic mission or consular post or by personnel of any agency of the United States abroad, except that those terms do not include any facility under the command of a United States area military commander.

SEC. 404. AUTHORIZATIONS OF APPROPRIATIONS.

(a) ESTABLISHMENT OF ACCOUNT.—There is established in the general fund of the Treasury of the United States an appropriations account for the Department of State which shall be known as the ''Embassy Construction and Security'' account.

(b) PURPOSES.—Funds made available under the ''Embassy Construction and Security'' account may be used only for the purposes of—

(1) the acquisition of United States diplomatic facilities and, if necessary, any residences or other structures located in close physical proximity to such facilities, or

(2) the provision of major security enhancements to United States diplomatic facilities,

necessary to bring the United States Government into compliance with all requirements applicable to the security of United States diplomatic facilities, including the relevant requirements set forth in section 406.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of State under ''Embassy Construction and Security''—

(A) for fiscal year 2000, $600,000,000;

(B) for fiscal year 2001, $600,000,000;

(C) for fiscal year 2002, $600,000,000;

(D) for fiscal year 2003, $600,000,000; and

(E) for fiscal year 2004, $600,000,000.

(2) AVAILABILITY OF AUTHORIZATIONS.—Authorizations of appropriations under paragraph (1) shall remain available until the appropriations are made.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 405. OBLIGATIONS AND EXPENDITURES.

(a) REPORT AND PRIORITY OF OBLIGATIONS.—

(1) REPORT.—Not later than 90 days after the date of enactment of this Act, and on February 1 of each year for 5 years thereafter, the Secretary of State shall submit a classified report to the appropriate congressional committees identifying each diplomatic facility that is a priority for replacement or for any major security enhancement because of its vulnerability to terrorist attack (by reason of the terrorist threat and the current condition of the facility). The report shall list such facilities in groups of 20. The groups shall be ranked in order from most vulnerable to least vulnerable to such an attack.

(2) PRIORITY ON USE OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds made available in the ''Embassy Construction and Security'' account for a particular project may be used only for those facilities which are listed in the first four groups described in paragraph (1).

(B) EXCEPTIONS.—Funds made available in the ''Embassy Construction and Security'' account may be used for facilities which are not in the first four groups, if the Secretary of State certifies to the appropriate congressional committees that such use of the funds is in the national interest of the United States.

(b) CONGRESSIONAL NOTIFICATION REQUIRED PRIOR TO TRANSFER OF FUNDS.—Prior to the transfer of funds from the ''Embassy Construction and Security'' account to any other account, the Secretary of State shall notify the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706(a)).

(c) SEMIANNUAL REPORTS ON ACQUISITION AND MAJOR SECURITY UPGRADES.—On June 1 and December 1 of each year, the Secretary of State shall submit a report to the appropriate congressional committees on the embassy construction and security program authorized under this title. The report shall include—

(1) obligations and expenditures—

(A) during the previous six months; and

(B) since the establishment of the ''Embassy Construction and Security'' account;

(2) projected obligations and expenditures during the four fiscal quarters following the submission of the report, and how these obligations and expenditures will improve security conditions of specific diplomatic facilities; and

(3) the status of ongoing acquisition and major security enhancement projects, including any significant changes in—

(A) the anticipated budgetary requirements for such projects;

(B) the anticipated schedule of such projects; and

(C) the anticipated scope of the projects.

SEC. 406. SECURITY REQUIREMENTS FOR UNITED STATES DIPLOMATIC FACILITIES.

(a) IN GENERAL.—The following security requirements shall apply with respect to United States diplomatic facilities:

(1) THREAT ASSESSMENTS.—

(A) EMERGENCY ACTION PLAN.—The Emergency Action Plan (EAP) of each United States mission shall address the threat of large explosive attacks from vehicles and the safety of employees during such an explosive attack.

(B) SECURITY ENVIRONMENT THREAT LIST.—The Security Environment Threat List shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities.

(2) SITE SELECTION.—

(A) IN GENERAL.—In selecting sites for new United States diplomatic facilities abroad, all personnel of United States Government agencies except those under the command of a United States area military commander shall be located on the same compound.

(B) WAIVER.—

(i) IN GENERAL.—The Secretary of State may waive subparagraph (A) if—

(I) the Secretary and the head of each agency employing affected personnel determine and certify to the appropriate congressional committees that security so permits, and it is in the national interest of the United States to do so; and

(II) the Secretary provides the appropriate congressional committees in writing the reasons justifying the determination under subclause (I).

(ii) AUTHORITY NOT DELEGABLE.—The Secretary may not delegate the authority provided in clause (i).

(C) CONGRESSIONAL NOTIFICATION.—Any waiver under this paragraph may be exercised only on a date that is at least 15 days after notification of the intention to waive this paragraph has been provided to the appropriate congressional committees.

(3) PERIMETER DISTANCE.—

(A) REQUIREMENT.—Each newly acquired United States diplomatic facility shall be sited not less than 100 feet from the perimeter of the property on which the facility is to be situated.

(B) WAIVER.—

(i) IN GENERAL.—The Secretary of State may waive subparagraph (A) if—

(I) the Secretary determines and certifies to the appropriate congressional committees that security so permits, and it is in the national interest of the United States to do so; and

(II) the Secretary provides the appropriate congressional committees in writing the reasons justifying the determination under subclause (I).

(ii) AUTHORITY NOT DELEGABLE.—The Secretary may not delegate the authority provided in clause (i).

(4) CRISIS MANAGEMENT TRAINING.—

(A) TRAINING OF HEADQUARTERS STAFF.—The appropriate personnel of the Department of State headquarters staff shall undertake crisis management training for mass casualty and mass destruction incidents relating to diplomatic facilities for the purpose of bringing about a rapid response to such incidents from Department of State headquarters in Washington, D.C.

(B) TRAINING OF PERSONNEL ABROAD.—A program of appropriate instruction in crisis management shall be provided to personnel at United States diplomatic facilities abroad.

(5) STATE DEPARTMENT SUPPORT.—

(A) FOREIGN EMERGENCY SUPPORT TEAM.—The Foreign Emergency Support Team (FEST) of the Department of State shall receive sufficient support from the Department, including—

(i) conducting routine training exercises of the FEST;

(ii) providing personnel identified to serve on the FEST as a collateral duty;

(iii) providing personnel to assist in activities such as security, medical relief, public affairs, engineering, and building safety; and

(iv) providing such additional support as may be necessary to enable the FEST to provide support in a post-crisis environment involving mass casualties and physical damage.

(B) FEST AIRCRAFT.—

(i) REPLACEMENT AIRCRAFT.—The President shall develop a plan to replace on a priority basis the current FEST aircraft funded by the Department of Defense with a dedicated, capable, and reliable replacement aircraft and backup aircraft, to be operated and maintained by the Department of Defense.

(ii) REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the appropriate congressional committees describing the aircraft selected pursuant to clause (i) and the arrangements for the funding, operation, and maintenance of that aircraft.

(6) RAPID RESPONSE PROCEDURES.—The Secretary of State shall enter into a memorandum of understanding with the Secretary of Defense setting out rapid response procedures for mobilization of personnel and equipment of their respective departments to provide more effective assistance in times of emergency with respect to United States diplomatic facilities.

(7) STORAGE OF EMERGENCY EQUIPMENT AND RECORDS.—All United States diplomatic facilities shall have emergency equipment and records required in case of an emergency situation stored at an off-site facility.

(b) NATIONAL SECURITY WAIVER.—

(1) IN GENERAL.—The President may waive the application of paragraph (2) or (3) of subsection (a) with respect to a diplomatic facility, other than a United States diplomatic mission or consular post or a United States Agency for International Development mission, if the President determines that—

(A) it is important to the national security of the United States to so exempt that facility; and

(B) all feasible steps are being taken, consistent with the national security requirements that require the waiver, to minimize the risk and the possible consequences of a terrorist attack involving that facility or its personnel.

(2) PERIODIC REPORTS.—

(A) IN GENERAL.—Not later than January 1, 2000, and every six months thereafter, the President shall submit to the appropriate congressional committees a classified report describing—

(i) the waivers that have been exercised under this subsection during the preceding six-month period or, in the case of the initial report, during the period since the date of enactment of this Act; and

(ii) the steps taken to maintain maximum feasible security at the facilities involved.

(B) SPECIAL RULE.—Any waiver that, for national security reasons, may not be described in a report required by subparagraph (A) shall be noted in that report and described in an appendix submitted to the congressional committees with direct oversight responsibility for the facility.

(c) STATUTORY CONSTRUCTION.—Nothing in this section alters or amends existing security requirements not addressed by this section.

SEC. 407. CLOSURE OF VULNERABLE POSTS.

(a) REVIEW.—The Secretary of State shall review the findings of the Overseas Presence Advisory Panel.

(b) REPORT.—

(1) IN GENERAL.—Not later than 120 days after submission of the Overseas Presence Panel Report, the Secretary of State shall submit a report to Congress setting forth the results of the review conducted under subsection (a).

(2) ELEMENTS OF THE REPORT.—The report shall—

(A) specify whether any United States diplomatic facility should be closed because—

(i) the facility is highly vulnerable and subject to threat of terrorist attack; and

(ii) adequate security enhancements cannot be provided to the facility;

(B) in the event that closure of a diplomatic facility is required, identify plans to provide secure premises for permanent use by the United States diplomatic mission, whether in country or in a regional United States diplomatic facility, or for temporary occupancy by the mission in a facility pending acquisition of new buildings;

(C) outline the potential for reduction or transfer of personnel or closure of missions if technology is adequately exploited for maximum efficiencies;

(D) examine the possibility of creating regional missions in certain parts of the world;

(E) in the case of diplomatic facilities that are part of the Special Embassy Program, report on the foreign policy objectives served by retaining such missions, balancing the importance of these objectives against the well-being of United States personnel; and

(F) examine the feasibility of opening new regional outreach centers, modeled on the system used by the United States Embassy in Paris, France, with each center designed to operate—

(i) at no additional cost to the United States Government;

(ii) with staff consisting of one or two Foreign Service officers currently assigned to the United States diplomatic mission in the country in which the center is located; and

(iii) in a region of the country with high gross domestic product (GDP), a high density population, and a media market that not only includes but extends beyond the region.

SEC. 408. ACCOUNTABILITY REVIEW BOARDS.

Section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831) is amended to read as follows:

"SEC. 301. ACCOUNTABILITY REVIEW BOARDS.

''(a) IN GENERAL.

''(1) CONVENING A BOARD.—Except as provided in paragraph (2), in any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (in this title referred to as the 'Board'). The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

''(2) DEPARTMENT OF DEFENSE FACILITIES AND PERSONNEL.—The Secretary of State is

not required to convene a Board in the case of an incident described in paragraph (1) that involves any facility, installation, or personnel of the Department of Defense with respect to which the Secretary has delegated operational control of overseas security functions to the Secretary of Defense pursuant to section 106 of this Act. In any such case, the Secretary of Defense shall conduct an appropriate inquiry. The Secretary of Defense shall report the findings and recommendations of such inquiry, and the action taken with respect to such recommendations, to the Secretary of State and Congress.

''(b) DEADLINES FOR CONVENING BOARDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of State shall convene a Board not later than 60 days after the occurrence of an incident described in subsection (a)(1), except that such 60-day period may be extended for two additional 30-day periods if the Secretary determines that the additional period or periods are necessary for the convening of the Board.

''(2) DELAY IN CASES INVOLVING INTELLIGENCE ACTIVITIES.—With respect to breaches of security involving intelligence activities, the Secretary of State may delay the establishment of a Board if, after consultation with the chairman of the Select Committee on Intelligence of the Senate and the chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the chairmen of such committees of each determination pursuant to this paragraph to delay the establishment of a Board.

''(c) NOTIFICATION TO CONGRESS.—Whenever the Secretary of State convenes a Board, the Secretary shall promptly inform the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives—

''(1) that a Board has been convened;

''(2) of the membership of the Board; and

''(3) of other appropriate information about the Board.''.

SEC. 409. AWARDS OF FOREIGN SERVICE STARS.

The State Department Basic Authorities Act of 1956 is amended by inserting after section 36 (22 U.S.C. 2708) the following new section:

''SEC. 36A. AWARDS OF FOREIGN SERVICE STARS.

''(a) AUTHORITY TO AWARD.—The President, upon the recommendation of the Secretary, may award a Foreign Service star to any member of the Foreign Service or any other civilian employee of the Government of the United States who, after August 1, 1998, while employed at, or assigned permanently or temporarily to, an official mission overseas or while traveling abroad on official business, incurred a wound or other injury or an illness (whether or not the wound, other injury, or illness resulted in death) in a case described in subsection (b)—

''(1) as the person was performing official duties;

''(2) as the person was on the premises of a United States mission abroad; or

''(3) by reason of the person's status as a United States Government employee.

''(b) CASES RESULTING FROM UNLAWFUL CONDUCT.—Cases covered by subsection (a) include cases of wounds or other injuries incurred as a result of terrorist or military action, civil unrest, or criminal activities directed at any facility of the Government of the United States.

''(c) SELECTION CRITERIA.—The Secretary shall prescribe the procedures for identifying and considering persons eligible for award of a Foreign Service star and for selecting the persons to be recommended for the award.

''(d) AWARD IN THE EVENT OF DEATH.—If a person selected for award of a Foreign Service star dies before being presented the award, the award may be made and the star presented to the person's family or to the person's representative, as designated by the President.

''(e) FORM OF AWARD.—The Secretary shall prescribe the design of the Foreign Service star. The award may not include a stipend or any other cash payment.

''(f) FUNDING.—Any expenses incurred in awarding a person a Foreign Service star may be paid out of appropriations available at the time of the award for personnel of the department or agency of the United States Government in which the person was employed when the person incurred the wound, injury, or illness upon which the award is based.''.

TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

SEC. 501. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING ACTIVITIES.—For ''International Broadcasting Activities'', $408,979,000 for the fiscal year 2000, and $408,979,000 for the fiscal year 2001.

(2) RADIO CONSTRUCTION.—For ''Radio Construction'', $20,868,000 for the fiscal year 2000, and $20,868,000 for the fiscal year 2001.

(3) BROADCASTING TO CUBA.—For ''Broadcasting to Cuba'', $22,743,000 for the fiscal year 2000 and $22,743,000 for the fiscal year 2001.

SEC. 502. REAUTHORIZATION OF RADIO FREE ASIA.

Section 309 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6208) is amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively;

(3) in subsection (c) (as redesignated by paragraph (2))—

(A) in paragraph (1)—

(i) by striking ''(A)''; and

(ii) by striking subparagraph (B);

(B) in paragraph (2), by striking ''September 30, 1999'' and inserting ''September 30, 2005'';

(C) in paragraph (4), by striking ''$22,000,000 in any fiscal year'' and inserting ''$28,000,000 in each of the fiscal years 2000 and 2001'';

(D) by striking paragraph (5); and

(E) by redesignating paragraph (6) as paragraph (5); and

(4) by amending subsection (f) (as redesignated by paragraph (2)) to read as follows:

''(f) SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 2005.''.

SEC. 503. NOMINATION REQUIREMENTS FOR THE CHAIRMAN OF THE BROADCASTING BOARD OF GOVERNORS.

Section 304(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6203 (b)(2)), is amended—

(1) by striking ''designate'' and inserting ''appoint''; and

(2) by adding at the end the following: '', subject to the advice and consent of the Senate''.

TITLE VI—ARMS CONTROL, NONPROLIFERATION, AND NATIONAL SECURITY

SEC. 601. SHORT TITLE.

This title may be cited as the ''Arms Control, Nonproliferation, and National Security Act of 1999''.

SEC. 602. DEFINITIONS.

In this title:

(1) ASSISTANT SECRETARY.—The term ''Assistant Secretary'' means the position of Assistant Secretary of State for Verification and Compliance designated under section 612.

(2) CONVENTION ON NUCLEAR SAFETY.—The term ''Convention on Nuclear Safety'' means the Convention on Nuclear Safety, done at Vienna on September 20, 1994 (Senate Treaty Document 104–6).

(3) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given the term in section 105 of title 5, United States Code.

(4) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(5) START TREATY OR TREATY.—The term ''START Treaty'' or ''Treaty'' means the Treaty With the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, including all agreed statements, annexes, protocols, and memoranda, signed at Moscow on July 31, 1991.

(6) START II TREATY.—The term ''START II Treaty'' means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, and related protocols and memorandum of understanding, signed at Moscow on January 3, 1993.

(7) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

Subtitle A—Arms Control

CHAPTER 1—EFFECTIVE VERIFICATION OF COMPLIANCE WITH ARMS CONTROL AGREEMENTS

SEC. 611. KEY VERIFICATION ASSETS FUND.

(a) IN GENERAL.—The Secretary of State is authorized to transfer funds available to the Department of State under this section to the Department of Defense, Department of Energy, or any agency, entity, or other component of the intelligence community, as needed, for retaining, researching, developing, or acquiring technologies or programs relating to the verification of arms control, nonproliferation and disarmament agreements or commitments.

(b) PROHIBITION ON REPROGRAMMING.—Notwithstanding any other provision of law, funds made available to carry out this section may not be used for any purpose other than the purposes specified in subsection (a).

(c) FUNDING.—Of the total amount of funds authorized to be appropriated to the Department of State by this Act for the fiscal years 2000 and 2001, $5,000,000 is authorized to be available for each such fiscal year to carry out subsection (a).

(d) DESIGNATION OF FUND.—Amounts made available under subsection (c) may be referred to as the ''Key Verification Assets Fund''.

SEC. 612. ASSISTANT SECRETARY OF STATE FOR VERIFICATION AND COMPLIANCE.

(a) DESIGNATION OF POSITION.—The Secretary of State shall designate one of the Assistant Secretaries of State authorized by section 1(c)(1) of the State Department Basic

Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) as the Assistant Secretary of State for Verification and Compliance. The Assistant Secretary shall report to the Under Secretary of State for Arms Control and International Security.

(b) DIRECTIVE GOVERNING THE ASSISTANT SECRETARY OF STATE.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall issue a directive governing the position of Assistant Secretary.

(2) ELEMENTS OF THE DIRECTIVE.—The directive issued under paragraph (1) shall set forth, consistent with this section—

(A) the duties of the Assistant Secretary;

(B) the relationships between the Assistant Secretary and other officials of the Department of State;

(C) any delegation of authority from the Secretary of State to the Assistant Secretary; and

(D) such other matters as the Secretary considers appropriate.

(c) DUTIES.—

(1) IN GENERAL.—The Assistant Secretary shall have as his principal responsibility the overall supervision (including oversight of policy and resources) within the Department of State of all matters relating to verification and compliance with international arms control, nonproliferation, and disarmament agreements or commitments.

(2) PARTICIPATION OF THE ASSISTANT SECRETARY.—

(A) PRIMARY ROLE.—Except as provided in subparagraphs (B) and (C), the Assistant Secretary, or his designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on verification or compliance matters, including interagency intelligence committees concerned with the development or exploitation of measurement or signals intelligence or other national technical means of verification.

(B) REQUIREMENT FOR DESIGNATION.—Subparagraph (A) shall not apply to groups or organizations on which the Secretary of State or the Undersecretary of State for Arms Control and International Security sits, unless such official designates the Assistant Secretary to attend in his stead.

(C) NATIONAL SECURITY LIMITATION.—

(i) The President may waive the provisions of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(ii) With respect to an interagency group or organization, or meeting thereof, working with exceptionally sensitive information contained in compartments under the control of the Director of Central Intelligence, the Secretary of Defense, or the Secretary of Energy, such Director or Secretary, as the case may be, may waive the provision of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(iii) Any waiver of participation under clause (i) or (ii) shall be transmitted in writing to the appropriate committees of Congress.

(3) RELATIONSHIP TO THE INTELLIGENCE COMMUNITY.—The Assistant Secretary shall be the principal policy community representative to the intelligence community on verification and compliance matters.

(4) REPORTING RESPONSIBILITIES.—The Assistant Secretary shall have responsibility within the Department of State for—

(A) all reports required pursuant to section 37 of the Arms Control and Disarmament Act (22 U.S.C. 2577);

(B) so much of the report required under paragraphs (5) through (10) of section 51(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) as relates to verification or compliance matters; and

(C) other reports being prepared by the Department of State as of the date of enactment of this Act relating to arms control, nonproliferation, or disarmament verification or compliance matters.

SEC. 613. ENHANCED ANNUAL ("PELL") REPORT.

Section 51(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon;

(3) in paragraph (6), by inserting:

(A) ''or commitments, including the Missile Technology Control Regime,'' after ''agreements'' the first time it appears;

(B) ''or commitments'' after ''agreements'' the second time it appears; and

(C) ''or commitment'' after ''agreement'';

(4) by adding at the end the following:

''(8) a specific identification, to the maximum extent practicable in unclassified form, of each and every question that exists with respect to compliance by other countries with arms control, nonproliferation, and disarmament agreements with the United States.''; and

(5) by adding at the end the following new subsection:

''(d) Each report shall include a discussion of each significant issue contained in a previous report issued during 1995, or after December 31, 1995, pursuant to paragraph (6), until the question or concern has been resolved and such resolution has been reported to the appropriate committees of Congress (as defined in section 601(7) of the Foreign Relations Authorization Act, Fiscal Years 2000 and 2001) in detail.''.

SEC. 614. REPORT ON START AND START II TREATIES MONITORING ISSUES.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of Central Intelligence shall submit a detailed classified report to the appropriate committees of Congress including the following:

(1) A comprehensive identification of all monitoring activities associated with the START and START II treaties.

(2) The specific intelligence community assets and capabilities, including analytical capabilities, that the Senate was informed, prior to the Senate giving its advice and consent to ratification of the treaties, would be necessary to accomplish those activities.

(3) An identification of the extent to which those assets and capabilities have, or have not, been attained or retained, and the corresponding effect this has had upon United States monitoring confidence levels.

(4) An assessment of any Russian activities relating to the START Treaty which have had an impact upon the ability of the United States to monitor Russian adherence to the Treaty.

(b) COMPARTMENTED ANNEX.—Exceptionally sensitive, compartmented information in the report required by this section may be provided in a compartmented annex submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 615. STANDARDS FOR VERIFICATION.

(a) DEFINITIONS.—It is the sense of the Senate that the following terms when used in publications of the United States Government, or in oral representations by officials of the United States Government, should have the following meanings:

(1) EFFECTIVELY VERIFIABLE.—The term ''effectively verifiable'' means that the requirements of subparagraphs (A) and (B) are met, as follows:

(A) The Director of Central Intelligence has certified to the President that the intelligence community has a high degree of confidence, with respect to a particular treaty or other agreement, in its ability to detect any militarily significant violation of the treaty or other agreement in a timely fashion, and to detect patterns of marginal violation over time. In determining the intelligence community's confidence, the Director should assume that all measures of concealment could be employed and that standard practices could be altered so as to impede monitoring.

(B) The Secretaries of State and Defense and the Chairman of the Joint Chiefs of Staff have certified to the President that they have a high degree of confidence, with respect to a particular treaty or other agreement, that the United States will be able to reach a legal and technical determination regarding any militarily significant violation of the treaty or other agreement in a timely fashion, and to reach such a determination regarding patterns of marginal violation, once detected. In determining the level of confidence under this subparagraph, the Secretaries of State and Defense and the Chairman of the Joint Chiefs of Staff should assume that all measures of concealment could be employed and that standard practices could be altered so as to impede monitoring.

(2) MILITARILY SIGNIFICANT VIOLATION.—The Chairman of the Joint Chiefs of Staff, in consultation with the Secretary of Defense, has sole responsibility for determining with specificity, for purposes of any treaty or other international agreement having implications for the national security of the United States, what constitutes a militarily significant violation. In making such a determination, the Chairman should give great weight to his judgment that the violation could pose a threat to the national security interests of the United States.

(3) TIMELY FASHION DEFINED.—In this section, the term ''timely fashion'' means in sufficient time for the United States to take remedial action to safeguard the national security.

(b) CONFORMING AMENDMENTS.—Section 37(a) of the Arms Control and Disarmament Act (22 U.S.C. 2577(a)) is amended—

(1) by striking ''adequately'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(3) by inserting after subsection (a) the following new subsection:

''(b) ASSESSMENTS UPON REQUEST.—Upon the request of the chairman or ranking minority member of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, in case of an arms control, nonproliferation, or disarmament proposal—

''(1) under consideration for presentation to a foreign country by the United States;

''(2) presented to a foreign country by the United States; or

''(3) presented to the United States by a foreign country;

the Secretary of State shall submit a report to the Committee on the degree to which elements of the proposal are capable of being verified.''.

SEC. 616. CONTRIBUTION TO THE ADVANCEMENT OF SEISMOLOGY.

The United States Government shall make available to the public in real time, or as quickly as possible, all raw seismological

data provided to the United States Government by any international organization that is directly responsible for seismological monitoring.

SEC. 617. PROTECTION OF UNITED STATES COMPANIES.

The United States National Authority (as designated pursuant to section 101 of the Chemical Weapons Convention Implementation Act of 1998 (as contained in division I of Public Law 105–277)) shall reimburse the Federal Bureau of Investigation for all costs incurred by the Bureau in connection with implementation of section 303(b)(2)(A) of that Act, except that such reimbursement may not exceed $1,000,000 in any fiscal year.

SEC. 618. PRESERVATION OF THE START TREATY VERIFICATION REGIME.

(a) FINDINGS.—The Senate makes the following findings:

(1) Paragraph 6 of Article XI of the START Treaty states the following: ''Each Party shall have the right to conduct reentry vehicle inspections of deployed ICBMs and SLBMs to confirm that such ballistic missiles contain no more reentry vehicles than the number of warheads attributed to them.''.

(2) Paragraph 1 of Section IX of the Inspections Protocol to the START Treaty states that each Party ''shall have the right to conduct a total of ten reentry vehicle inspections each year''.

(3) Paragraph 4 of Section XVIII of the Inspections Protocol to the START Treaty states that the Parties ''shall, when possible, clarify ambiguities regarding factual information contained in the inspection report'' that each inspection team must provide at the end of an inspection, pursuant to paragraph 1 of Section XVIII of that Protocol.

(4) Paragraph 12 of Annex 3 to the Inspections Protocol to the START Treaty states that, once a missile has been selected and prepared for reentry vehicle inspection, the inspectors shall be given ''a clear, unobstructed view of the front section [of the missile], to ascertain that the front section contains no more reentry vehicles than the number of warheads attributed to missiles of that type''.

(5) Paragraph 13 of Annex 3 to the Inspections Protocol to the START Treaty states the following: ''If a member of the in-country escort declares that an object contained in the front section is not a reentry vehicle, the inspected Party shall demonstrate to the satisfaction of the inspectors that this object is not a reentry vehicle.''.

(6) Section II of Annex 8 to the Inspections Protocol to the START Treaty provides that radiation detection equipment may be used during reentry vehicle inspections.

(7) Paragraph F.1 of Section VI of Annex 8 to the Inspections Protocol to the START Treaty states the following: ''Radiation detection equipment shall be used to measure nuclear radiation levels in order to demonstrate that objects declared to be non-nuclear are non-nuclear.''.

(8) While the use of radiation detection equipment may help to determine whether an object that ''a member of the in-country escort declares..is not a reentry vehicle'' is a reentry vehicle with a nuclear warhead, it cannot help to determine whether that object is a reentry vehicle with a non-nuclear warhead.

(9) Article XV of the START Treaty provides for a Joint Compliance and Inspection Commission that shall meet to ''resolve questions relating to compliance with the obligations assumed''.

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

(1) the United States should assert and, to the maximum extent possible, exercise the right for reentry vehicle inspectors to obtain a clear, unobstructed view of the front section of a deployed SS-18 ICBM selected for reentry vehicle inspection pursuant to paragraph 6 of Article XI of the START Treaty;

(2) the United States should assert and, to the maximum extent possible, obtain Russian compliance with the obligation of the host Party, pursuant to paragraph 13 of Annex 3 to the Inspections Protocol to the START Treaty, to demonstrate to the satisfaction of the inspectors that an object which is declared not to be a reentry vehicle is not a reentry vehicle;

(3) if a member of the in-country escort declares that an object contained in the front section of a deployed SS-18 ICBM selected for reentry vehicle inspection pursuant to paragraph 6 of Article XI of the START Treaty is not a reentry vehicle, but the inspected Party does not demonstrate to the satisfaction of the inspectors that this object is not a reentry vehicle, the United States inspection team should record this fact in the official inspection report as an ambiguity and the United States should raise this matter in the Joint Compliance and Inspection Commission as a concern relating to compliance of Russia with the obligations assumed under the Treaty;

(4) the United States should not agree to any arrangement whereby the use of radiation detection equipment in a reentry vehicle inspection, or a combination of the use of such equipment and Russian assurances regarding SS-18 ICBMs, would suffice to demonstrate to the satisfaction of the inspectors that an object which is declared not to be a reentry vehicle is not a reentry vehicle; and

(5) the United States should not agree to any arrangement whereby the use of technical equipment in a reentry vehicle inspection would suffice to demonstrate to the satisfaction of the inspectors that an object which is declared not to be a reentry vehicle is not a reentry vehicle, unless the Director of Central Intelligence, in consultation with the Secretaries of State, Defense, and Energy, has determined that such equipment can demonstrate to the satisfaction of the inspectors that an object which is declared not to be a reentry vehicle is not a reentry vehicle.

(c) START TREATY DEFINED.—In this section, the term ''START Treaty'' means the Treaty With the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, including all agreed statements, annexes, protocols, and memoranda, signed at Moscow on July 31, 1991.

CHAPTER 2—LANDMINE POLICY, DEMINING ACTIVITIES, AND RELATED MATTERS

SEC. 621. CONFORMING AMENDMENT.

Subsection (d) of section 248 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1958) is amended by inserting '', and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives,'' after ''congressional defense committees''.

SEC. 622. DEVELOPMENT OF ADVANCED HUMANITARIAN DEMINING CAPABILITIES FUND.

(a) IN GENERAL.—The Secretary of State is authorized to transfer funds available to the Department of State under this section to the Department of Defense, Department of Energy, or any of the military departments, for researching, developing, adapting, and deploying technologies to achieve the destruction or other removal of antipersonnel landmines for humanitarian purposes.

(b) PROHIBITION ON REPROGRAMMING.—Notwithstanding any other provision of law, funds made available to carry out this section may not be used for any purpose other than the purposes specified in subsection (a).

(c) FUNDING.—Of the total amount of funds authorized to be appropriated to the Department of State by this Act for the fiscal years 2000 and 2001, $5,000,000 is authorized to be available for each such fiscal year to carry out subsection (a).

(d) DESIGNATION OF FUND.—Amounts made available under subsection (c) may be referred to as the ''Development of Advanced Humanitarian Demining Capabilities Fund''.

Subtitle B—Nuclear Nonproliferation, Safety, and Related Matters

SEC. 631. REPORTING BURDEN ON UNITED STATES NUCLEAR INDUSTRY.

In carrying out any United States obligation under the Convention on Nuclear Safety, no Executive agency may impose any new reporting obligation upon any United States business concern.

SEC. 632. AUTHORITY TO SUSPEND NUCLEAR COOPERATION FOR FAILURE TO RATIFY CONVENTION ON NUCLEAR SAFETY.

Section 132 of the Atomic Energy Act of 1954 (42 U.S.C. 2160b) is amended—

(1) in the section heading, by inserting before the period the following: ''OR THE CONVENTION ON NUCLEAR SAFETY''; and

(2) by inserting ''or the Convention on Nuclear Safety'' after ''Material''.

SEC. 633. ELIMINATION OF DUPLICATIVE GOVERNMENT ACTIVITIES.

(a) PRIMARY RESPONSIBILITY OF THE SECRETARY OF STATE.—Congress urges the Secretary of State, in consultation with the Nuclear Regulatory Commission, to ensure that the functions performed by the International Nuclear Regulators Association are undertaken to the maximum extent practicable in connection with implementation of the Convention on Nuclear Safety.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the President shall submit a report to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives—

(1) detailing all activities being undertaken by the United States in the field of international nuclear regulation and nuclear safety, and justifying continuation of such activities if the activities in any way duplicate an activity undertaken pursuant to the Convention on Nuclear Safety; and

(2) identifying all activities terminated pursuant to his certification made on April 9, 1999, in accordance with Condition (1) of the resolution of ratification for the Convention on Nuclear Safety.

SEC. 634. CONGRESSIONAL NOTIFICATION OF NONPROLIFERATION ACTIVITIES.

Section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) is amended to read as follows:

''(c)(1) The Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, the Commission, and, with regard to subparagraph (B), the Director of Central Intelligence, shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to—

''(A) their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, including the proliferation of nuclear, chemical, or biological weapons, or their means of delivery; and

''(B) the current activities of foreign nations which are of significance from the proliferation standpoint.

''(2) For the purposes of this subsection with respect to subparagraph (B), the phrase

'fully and currently informed' means the transmittal of information not later than 60 days after becoming aware of the activity concerned.''.

SEC. 635. EFFECTIVE USE OF RESOURCES FOR NONPROLIFERATION PROGRAMS.

(a) PROHIBITION.—Except as provided in subsection (b), no assistance may be provided by the United States Government to any person who is involved in the research, development, design, testing, or evaluation of chemical or biological weapons for offensive purposes.

(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply to any activity conducted to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

SEC. 636. DISPOSITION OF WEAPONS-GRADE MATERIAL.

(a) REPORT ON REDUCTION OF THE STOCKPILE.—Not later than 120 days after signing an agreement between the United States and Russia for the disposition of excess weapons plutonium, the Secretary of Energy, with the concurrence of the Secretary of Defense, shall submit a report to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives—

(1) detailing plans for United States implementation of such agreement;

(2) identifying the number of United States warhead ''pits'' of each type deemed ''excess'' for the purpose of dismantlement or disposition; and

(3) describing any implications this may have for the Stockpile Stewardship and Management Program.

(b) SUBMISSION OF THE FABRICATION FACILITY AGREEMENT PURSUANT TO LAW.—Whenever the President submits to Congress the agreement to establish a mixed oxide fuel fabrication or production facility in Russia pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), it is the sense of Congress that the Secretary of State should be prepared to certify to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House Representatives that—

(1) arrangements for the establishment of that facility will further United States nuclear non-proliferation objectives and will outweigh the proliferation risks inherent in the use of mixed oxide fuel elements;

(2) a guaranty has been given by Russia that no fuel elements produced, fabricated, reprocessed, or assembled at such facility, and no sensitive nuclear technology related to such facility, will be exported or supplied by the Russian Federation to any country in the event that the United States objects to such export or supply; and

(3) a guaranty has been given by Russia that the facility and all nuclear materials and equipment therein, and any fuel elements or special nuclear material produced, fabricated, reprocessed, or assembled at that facility, including fuel elements exported or supplied by Russia to a third party, will be subject to international monitoring and transparency sufficient to ensure that special nuclear material is not diverted.

(c) DEFINITIONS.—

(1) PRODUCED.—The terms ''produce'' and ''produced'' have the same meaning that such terms are given under section 11 u. of the Atomic Energy Act of 1954.

(2) PRODUCTION FACILITY.—The term ''production facility'' has the same meaning that such term is given under section 11 v. of the Atomic Energy Act of 1954.

(3) SPECIAL NUCLEAR MATERIAL.—The term ''special nuclear material'' has the meaning that such term is given under section 11 aa. of the Atomic Energy Act of 1954.

SEC. 637. STATUS OF HONG KONG AND MACAO IN UNITED STATES EXPORT LAW.

(a) PRELICENSE VERIFICATION.—Notwithstanding any other provision of law and except as provided in subsections (c) and (f), no license may be approved for the export to Hong Kong or Macao, as the case may be, of any item described in subsection (d) unless appropriate United States officials are provided the right and ability to conduct prelicense verification, in such manner as the United States considers appropriate, of the validity of the stated end-user, and the validity of the stated end-use, as specified on the license application.

(b) POST-SHIPMENT VERIFICATION.—Notwithstanding any other provision of law and except as provided in subsections (c) and (f), in the event that appropriate United States officials are denied the ability to conduct post-shipment verification, in such manner as the United States considers appropriate, of the location and end-use of any item under their jurisdiction that has been exported from the United States to Hong Kong or Macao, then Hong Kong or Macao, as the case may be, shall thereafter be treated in the same manner as the People's Republic of China for the purpose of any export of any item described in subsection (d).

(c) WAIVER AUTHORITY.—The Secretary of State, with respect to any item defined in subsection (d)(1), or the Secretary of Commerce, with respect to any item defined in subsection (d)(2), may waive or remove the imposition of the requirements imposed by subsections (a) and (b) upon a written finding, which shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, that—

(1) the case that warranted the imposition of such requirements has been settled to the satisfaction of the United States; or

(2) there are specific reasons why the waiver or removal of such requirements is in the national interest of the United States.

(d) ITEM DEFINED.—The term ''item'' as used in this section means—

(1) any item controlled on the United States Munitions List under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

(2) any item for which export controls are administered by the Department of Commerce for foreign policy or national security reasons.

(e) EFFECTIVE DATE.—Effective January 1, 2000, this section shall apply to Macao.

(f) EXCEPTION.—The provisions of this section do not apply to any activity subject to reporting under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

Subtitle C—Miscellaneous Provisions

SEC. 641. REQUIREMENT FOR TRANSMITTAL OF SUMMARIES.

Whenever a United States delegation engaging in negotiations on arms control, nonproliferation, or disarmament submits to the Secretary of State a summary of the activities of the delegation or the status of those negotiations, a copy of each such summary shall be further transmitted by the Secretary of State to the Committee on Foreign Relations of the Senate promptly.

SEC. 642. PROHIBITION ON WITHHOLDING CERTAIN INFORMATION FROM CONGRESS.

(a) PROHIBITION.—No officer or employee of the United States may knowingly withhold information from the chairman or ranking minority member of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives that is required to be transmitted pursuant to subsection (c) or (d) of section 602 of the Nuclear Non-Proliferation Act of 1978.

(b) ISSUANCE OF REGULATIONS.—Not later than January 1, 2000, the Secretaries of State, Defense, Commerce, and Energy, the Director of Central Intelligence, and the Chairman of the Nuclear Regulatory Commission shall issue directives to implement their responsibilities under subsections (c) and (d) of section 602 of the Nuclear Non-Proliferation Act of 1978. Copies of such directives shall be forwarded promptly to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives upon the issuance of the directives.

SEC. 643. REFORM OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

(a) ADDITIONAL RESOURCES.—In addition to other amounts authorized to be appropriated for the purposes of the Diplomatic Telecommunications Service Program Office (DTS-PO), of the amounts made available to the Department of State under section 101(a)(2), $18,000,000 shall be made available only to the DTS-PO for enhancement of Diplomatic Telecommunications Service capabilities.

(b) IMPROVEMENT OF DTS-PO.—In order for the DTS-PO to better manage a fully integrated telecommunications network to service all agencies at diplomatic missions and consular posts, the DTS-PO shall—

(1) ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization;

(2) not later than December 31, 1999, terminate all leases for satellite systems located at posts in criteria countries, unless all maintenance and servicing of the satellite system is undertaken by United States citizens who have received appropriate security clearances;

(3) institute a system of charges for utilization of bandwidth by each agency beginning October 1, 2000, and institute a comprehensive chargeback system to recover all, or substantially all, of the other costs of telecommunications services provided through the Diplomatic Telecommunications Service to each agency beginning October 1, 2001;

(4) ensure that all DTS-PO policies and procedures comply with applicable policies established by the Overseas Security Policy Board; and

(5) maintain the allocation of the positions of Director and Deputy Director of DTS-PO as those positions were assigned as of June 1, 1999, which assignments shall pertain through fiscal year 2001, at which time such assigments shall be adjusted in the customary manner.

(c) REPORT ON IMPROVING MANAGEMENT.—Not later than March 31, 2000, the Director and Deputy Director of DTS-PO shall jointly submit to the appropriate committees of Congress the Director's plan for improving network architecture, engineering, operations monitoring and control, service metrics reporting, and service provisioning, so as to achieve highly secure, reliable, and robust communications capabilities that meet the needs of both national security agencies and other United States agencies with overseas personnel.

(d) FUNDING OF DTS-PO.—Funds appropriated for allocation to DTS-PO shall be made available only for DTS-PO until a comprehensive chargeback system is in place.

SEC. 644. SENSE OF CONGRESS ON FACTORS FOR CONSIDERATION IN NEGOTIATIONS WITH THE RUSSIAN FEDERATION ON REDUCTIONS IN STRATEGIC NUCLEAR FORCES.

It is the sense of Congress that, in negotiating a START III Treaty with the Russian

Federation, or any other arms control treaty with the Russian Federation making comparable amounts of reductions in United States strategic nuclear forces—

(1) the strategic nuclear forces and nuclear modernization programs of the People's Republic of China and every other nation possessing nuclear weapons should be taken into full consideration in the negotiation of such treaty; and

(2) such programs should not undermine the limitations set forth in the treaty.

SEC. 645. CLARIFICATION OF EXCEPTION TO NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.

Section 1514(b) of Public Law 105–261 is amended by striking all that follows after ''EXCEPTION.—'' and inserting the following: ''Subsections (a)(2), (a)(4), and (a)(8) shall not apply to the export of a satellite or satellite-related items for launch in, or by nationals of, a country that is a member of the North Atlantic Treaty Organization (NATO) or that is a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)) of the United States unless, in each instance of a proposed export of such item, the Secretary of State, in consultation with the Secretary of Defense, first provides a written determination to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that it is in the national security or foreign policy interests of the United States to apply the export controls required under such subsections.''.

SEC. 646. STUDY ON LICENSING PROCESS UNDER THE ARMS EXPORT CONTROL ACT.

Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on International Relations of the House of Representatives a study on the performance of the licensing process pursuant to the Arms Export Control Act, with recommendations on how to improve that performance. The study shall include:

(1) An analysis of the typology of licenses on which action was completed in 1999. The analysis should provide information on major categories of license requests, including—

(A) the number for nonautomatic small arms, automatic small arms, technical data, parts and components, and other weapons;

(B) the percentage of each category staffed to other agencies;

(C) the average and median time taken for the processing cycle for each category when staffed and not staffed;

(D) the average time taken by White House or National Security Council review or scrutiny; and

(E) the average time each spent at the Department of State after a decision had been taken on the license but before a contractor was notified of the decision. For each category the study should provide a breakdown of licenses by country. The analysis also should identify each country that has been identified in the past three years pursuant to section 3(e) of the Arms Export Control Act (22 U.S.C. 2753(e)).

(2) A review of the current computer capabilities of the Department of State relevant to the processing of licenses and its ability to communicate electronically with other agencies and contractors, and what improvements could be made that would speed the process, including the cost for such improvements.

(3) An analysis of the work load and salary structure for export licensing officers of the Office of Defense Trade Control of the Department of State as compared to comparable jobs at the Department of Commerce and the Department of Defense.

(4) Any suggestions of the Department of State relating to resources and regulations, and any relevant statutory changes that might expedite the licensing process while furthering the objectives of the Arms Export Control Act.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—People's Republic of China

SEC. 701. FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the conclusions of the Department of State, as set forth in the Country Reports on Human Rights Practices for 1998, on human rights in the People's Republic of China in 1998 as follows:

(A) ''The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the paramount source of power. . . . Citizens lack both the freedom peacefully to express opposition to the party-led political system and the right to change their national leaders or form of government.''.

(B) ''The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms. These abuses stemmed from the authorities' very limited tolerance of public dissent aimed at the Government, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms.''.

(C) ''Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process.''.

(D) ''Prison conditions at most facilities remained harsh. . . . The Government infringed on citizens' privacy rights. The Government continued restrictions on freedom of speech and of the press, and tightened these toward the end of the year. The Government severely restricted freedom of assembly, and continued to restrict freedom of association, religion, and movement.''.

(E) ''Discrimination against women, minorities, and the disabled; violence against women, including coercive family planning practices—which sometimes include forced abortion and forced sterilization; prostitution, trafficking in women and children, and the abuse of children all are problems.''.

(F) ''The Government continued to restrict tightly worker rights, and forced labor remains a problem.''.

(G) ''Serious human rights abuses persisted in minority areas, including Tibet and Xinjiang, where restrictions on religion and other fundamental freedoms intensified.''.

(H) ''Unapproved religious groups, including Protestant and Catholic groups, continued to experience varying degrees of official interference and repression.''.

(I) ''Although the Government denies that it holds political or religious prisoners, and argues that all those in prison are legitimately serving sentences for crimes under the law, an unknown number of persons, estimated at several thousand, are detained in violation of international human rights instruments for peacefully expressing their political, religious, or social views.''.

(2) In addition to the State Department, credible press reports and human rights organizations have documented an intense crackdown on political activists by the Government of the People's Republic of China, involving the harassment, detainment, arrest, and imprisonment of dozens of activists.

(3) The People's Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(4) The People's Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and is a signatory to the International Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights.

SEC. 702. FUNDING FOR ADDITIONAL PERSONNEL AT DIPLOMATIC POSTS TO REPORT ON POLITICAL, ECONOMIC, AND HUMAN RIGHTS MATTERS IN THE PEOPLE'S REPUBLIC OF CHINA.

Of the amounts authorized to be appropriated for the Department of State by this Act, $2,200,000 for fiscal year 2000 and $2,200,000 for fiscal year 2001 shall be made available only to support additional personnel in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong, in order to monitor political and economic conditions, including in particular respect for internationally recognized human rights, in the People's Republic of China.

SEC. 703. PRISONER INFORMATION REGISTRY FOR THE PEOPLE'S REPUBLIC OF CHINA.

(a) REQUIREMENT.—The Secretary of State shall establish and maintain a registry which shall, to the extent practicable, provide information on all political prisoners, prisoners of conscience, and prisoners of faith in the People's Republic of China. The registry shall be known as the ''Prisoner Information Registry for the People's Republic of China''.

(b) INFORMATION IN REGISTRY.—The registry required by subsection (a) shall include information on the charges, judicial processes, administrative actions, uses of forced labor, incidents of torture, lengths of imprisonment, physical and health conditions, and other matters associated with the incarceration of prisoners in the People's Republic of China referred to in that subsection.

(c) AVAILABILITY OF FUNDS.—The Secretary may make funds available to nongovernmental organizations currently engaged in monitoring activities regarding political prisoners in the People's Republic of China in order to assist in the establishment and maintenance of the registry required by subsection (a).

SEC. 704. REPORT REGARDING ESTABLISHMENT OF ORGANIZATION FOR SECURITY AND COOPERATION IN ASIA.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report assessing the feasibility and utility of establishing an Organization for Security and Cooperation in Asia which would be modeled after the Organization for Security and Cooperation in Europe.

SEC. 705. SENSE OF CONGRESS REGARDING ORGAN HARVESTING AND TRANSPLANTING IN THE PEOPLE'S REPUBLIC OF CHINA.

It is the sense of Congress that—

(1) the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes;

(2) the Government of the People's Republic of China should be strongly condemned for such organ harvesting and transplanting practice;

(3) the President should bar from entry into the United States any and all officials of the Government of the People's Republic of China known to be directly involved in such organ harvesting and transplanting practice;

(4) individuals subject to the jurisdiction of the United States who are determined to be participating in or otherwise facilitating the sale of organs harvested should be prosecuted to the fullest possible extent of the law; and

(5) the appropriate officials in the United States should interview individuals, including doctors, who may have knowledge of such organ harvesting and transplanting practice.

Subtitle B—Other Matters

SEC. 721. DENIAL OF ENTRY INTO UNITED STATES OF FOREIGN NATIONALS ENGAGED IN ESTABLISHMENT OR ENFORCEMENT OF FORCED ABORTION OR STERILIZATION POLICY.

(a) DENIAL OF ENTRY.—Notwithstanding any other provision of law, the Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any foreign national whom the Secretary finds, based on credible and specific information, to have been directly involved in the establishment or enforcement of population control policies forcing a woman to undergo an abortion against her free choice or forcing a man or woman to undergo sterilization against his or her free choice.

(b) EXCEPTIONS.—The prohibitions in subsection (a) shall not apply in the case of a foreign national who is a head of state, head of government, or cabinet level minister.

(c) WAIVER.—The President may waive the prohibitions in subsection (a) with respect to a foreign national if the President—

(1) determines that it is important to the national interest of the United States to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 722. SEMIANNUAL REPORTS ON UNITED STATES SUPPORT FOR MEMBERSHIP OR PARTICIPATION OF TAIWAN IN INTERNATIONAL ORGANIZATIONS.

(a) REPORTS REQUIRED.—Not later than 60 days after the date of enactment of this Act, and every 6 months thereafter, the Secretary of State shall submit to Congress a report on the status of efforts by the United States Government to support—

(1) the membership of Taiwan in international organizations that do not require statehood as a prerequisite to such membership; and

(2) the appropriate level of participation by Taiwan in international organizations that may require statehood as a prerequisite to full membership.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall—

(1) set forth a comprehensive list of the international organizations in which the United States Government supports the membership or participation of Taiwan;

(2) describe in detail the efforts of the United States Government to achieve the membership or participation of Taiwan in each organization listed; and

(3) identify the obstacles to the membership or participation of Taiwan in each organization listed, including a list of any governments that do not support the membership or participation of Taiwan in each such organization.

SEC. 723. CONGRESSIONAL POLICY REGARDING UNITED NATIONS GENERAL ASSEMBLY RESOLUTION ES–10/6.

(a) FINDINGS.—Congress makes the following findings:

(1) In an emergency special session the United Nations General Assembly voted on February 9, 1999, to adopt Resolution ES–10/6, entitled ''Illegal Israeli Actions in Occupied East Jerusalem And The Rest Of The Occupied Palestinian Territory'', to convene for the first time in 50 years the parties to the Fourth Geneva Convention for the Protection of Civilians in Time of War.

(2) That resolution unfairly places full blame for the deterioration of the peace process in the Middle East on Israel and dangerously politicizes the Geneva Convention, which was established to address critical humanitarian crises.

(3) The adoption of that resolution is intended to prejudge direct negotiations in the peace process in the Middle East, put additional and undue pressure on Israel to influence the results of such negotiations, and single out Israel for unprecedented enforcement proceedings which have never been invoked, even against governments with records of massive violations of the Geneva Convention.

(b) STATEMENT OF POLICY.—Congress—

(1) commends the Department of State for the vote of the United States against United Nations General Assembly Resolution ES–10/6, thereby affirming that the text of the resolution politicizes the Fourth Geneva Convention, which is primarily humanitarian in nature; and

(2) urges the Department of State to continue its efforts against convening the conference specified in the resolution.

SEC. 724. WAIVER OF CERTAIN PROHIBITIONS REGARDING THE PALESTINE LIBERATION ORGANIZATION.

(a) AUTHORITY TO WAIVE.—The President may waive any prohibition set forth in section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1407; 22 U.S.C. 5202) if the President determines and so certifies to the appropriate congressional committees that—

(1) it is in the national interest of the United States to do so; and

(2) after the date of the enactment of this Act, neither the Palestine Liberation Organization, the Palestinian Authority, the Palestinian Legislative Council, nor any Palestinian governing body with jurisdiction over territories controlled by the Palestinian Authority has made a declaration of statehood outside the framework of negotiations with the State Israel.

(b) PERIOD OF APPLICABILITY OF WAIVER.—Any waiver under subsection (a) shall be effective for not more than 6 months at a time.

SEC. 725. UNITED STATES POLICY REGARDING JERUSALEM AS THE CAPITAL OF ISRAEL.

(a) CONSTRUCTION OF UNITED STATES EMBASSY IN JERUSALEM.—Of the amounts authorized to be appropriated by section 101(a)(3) of this Act for ''Security and Maintenance of United States Missions'', $50,000,000 for the fiscal year 2000 and $50,000,000 for the fiscal year 2001 may be available for the construction of a United States embassy in Jerusalem, Israel.

(b) LIMITATION ON USE OF FUNDS FOR CONSULATE IN JERUSALEM.—None of the funds authorized to be appropriated by this Act should be obligated or expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

(c) LIMITATION ON USE OF FUNDS FOR CERTAIN PUBLICATIONS.—None of the funds authorized to be appropriated by this Act may be obligated or expended for the publication of any official government document which lists countries and their capital cities unless the document identifies Jerusalem as the capital of Israel.

(d) RECORD OF PLACE OF BIRTH AS ISRAEL FOR PASSPORT PURPOSES.—For purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon the request of the citizen, record the place of birth as Israel.

SEC. 726. UNITED STATES POLICY WITH RESPECT TO NIGERIA.

(a) FINDINGS.—Congress makes the following findings:

(1) A stable and democratic Nigeria is important to the interests of the United States, the West African region, and the international community.

(2) Millions of Nigerians participated in four rounds of multiparty elections as part of a transition program that will culminate in the inauguration of a civilian president, members of the National Assembly, governors, and local leaders on May 29, 1999. Although turnout in each of the four rounds was lower than expected, a clear majority of Nigerians demonstrated their support for a swift and orderly transition to democratic civilian rule through participation in the elections or through other means.

(3) Nevertheless, continued rule by successive military regimes in Nigeria has harmed the lives of the people of Nigeria, undermined confidence in the Nigerian economy, damaged relations between Nigeria and the United States, and threatened the political and economic stability of West Africa.

(4) Although the current military regime, under the leadership of General Abdusalami Abubakar, has made significant progress in liberalizing the political environment in Nigeria, including increased respect for freedom of assembly, expression, and association, numerous decrees are still in force that suspend the constitutional protection of fundamental human rights, allow indefinite detention without charge, and revoke the jurisdiction of civilian courts over executive actions.

(5) Despite the optimism expressed by many observers about the progress that has been made in Nigeria, the country's recent history raises serious questions about the potential success of the transition program. In particular, events in the Niger Delta in early 1999 underscore the critical need for ongoing monitoring of the situation and indicate that a return by the Government of Nigeria to repressive methods remains a possibility.

(b) DECLARATION OF POLICY.—Congress declares that the United States—

(1) supports a timely, effective, and sustainable transition to democratic, civilian government in Nigeria; and

(2) encourages the incoming civilian government in Nigeria to make the political, economic, and legal reforms necessary to ensure the rule of law and respect for human rights in Nigeria, including establishing effective democratic institutions, integrating the military into democratic society, and creating mechanisms for transparency and accountability.

SEC. 727. PARTIAL LIQUIDATION OF BLOCKED LIBYAN ASSETS.

(a) LIQUIDATION OF CERTAIN BLOCKED LIBYAN ASSETS.—The President shall vest and liquidate so much of blocked Libyan assets, ordered pursuant to Executive Order No. 12544 (January 8, 1986), as is necessary to pay for the reasonable costs of travel to and from The Hague, Netherlands, by immediate family members of United States citizens who were victims of the crash of Pan American flight 103 in 1988 and wish to attend the trial of those individuals suspected of terrorist acts causing the crash.

(b) DEFINITIONS.—In this section—

(1) BLOCKED LIBYAN ASSETS.—The term ''blocked Libyan assets'' refers to property and interests of the Government of Libya, its agencies, instrumentalities, and controlled

entities and the Bank of Libya, blocked pursuant to Executive Order No. 12544 (January 8, 1986).

(2) IMMEDIATE FAMILY MEMBERS.—The term ''immediate family member'' means parents, siblings, children, spouse, or a person who stood in loco parentis or to whom he or she stood in loco parentis, of a crash victim.

SEC. 728. SUPPORT FOR REFUGEES FROM RUSSIA WHO CHOOSE TO RESETTLE IN ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Russian Jewish community is the third largest Jewish community in the world.

(2) Anti-Semitic rhetoric from members of the Duma of the Russian Federation has increased during the past year.

(3) The Duma failed to pass a resolution condemning the anti-Semitic statements made by Russian lawmakers on March 19, 1999.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should support members of Russia's Jewish community; and

(2) the United States should continue to provide assistance to Russian Jewish refugees resettling in Israel.

SEC. 729. SENSE OF CONGRESS REGARDING EXTRADITION OF LT. GENERAL IGOR GIORGADZE.

(a) FINDINGS.—Congress makes the following findings:

(1) On Tuesday, August 29, 1995, President Eduard Shevardnadze of Georgia was the victim of an attempted assassination plot as he was departing his offices in the Georgian Parliament building to attend the signing ceremony for a new Georgian constitution.

(2) Former Chief of the Georgian National Security Service, Lt. General Igor Giorgadze, has been implicated in organizing the August 29, 1995 car bomb attack on President Shevardnadze, and allegedly fled from the Varziani air base, one of Russia's four military bases in Georgia at that time, and the same Russian base on which three Georgia aircraft SU 25's were sabotaged, preventing them from performing fighter escort duty for President Shevardnadze's aircraft.

(3) Lt. General Igor Giorgadze has subsequently been seen walking freely on the streets of Moscow as well as living and utilizing facilities of the Government of Russia.

(4) Interpol is conducting a search for Lt. General Igor Giorgadze for his role in the assassination attempt against President Shevardnadze.

(5) In the aftermath of the attack on President Shevardnadze, and regularly since that time, the Government of Georgia has made repeated requests for the extradition of Lt. General Igor Giorgadze to Tbilisi, Georgia.

(6) The Russian Interior Ministry has claimed that it is unable to locate Giorgadze.

(7) The Georgian Security and Interior Ministries on repeated occasions have provided to the Russian Interior Ministry—

(A) the exact locations in Russia where Giorgadze could be found, including the exact location in Moscow where Giorgadze's family lived;

(B) the exact location where Giorgadze himself stayed outside of Moscow in a dacha of the Russian Ministry of Defense;

(C) people he associates with;

(D) apartments he visits; and

(E) the places, including restaurants, markets, and companies, he frequents.

(8) Russian newspapers regularly carry interviews with Giorgadze in which Giorgadze calls for a change in regime in Tbilisi.

(9) Giorgadze is actively engaged in a propaganda campaign against President Shevardnadze and the democratic forces in Georgia, with the assistance of his father who is the Communist Party chief in Georgia.

(10) Giorgadze continues to organize and plan attempts on the life of President Shevardnadze.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President and other senior United States Government officials should raise at each bilateral meeting between officials of the United States Government and officials of the Russian Federation the issue of the extradition of Lt. General Igor Giorgadze to Georgia.

SEC. 730. SENSE OF CONGRESS ON THE USE OF CHILDREN AS SOLDIERS OR OTHER COMBATANTS IN FOREIGN ARMED FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) There are at least 300,000 children who are involved in armed conflict in at least 25 countries around the world. This is an escalating international humanitarian crisis which must be addressed promptly.

(2) Children are uniquely vulnerable to military recruitment because of their emotional and physical immaturity, are easily manipulated, and can be drawn into violence that they are too young to resist or understand.

(3) Children are most likely to become child soldiers if they are orphans, refugees, poor, separated from their families, displaced from their homes, living in a combat zone, or have limited access to education.

(4) Child soldiers, besides being exposed to the normal hazards of combat, are also afflicted with other injuries due to their lives in the military. Young children may have sexually related illnesses, suffer from malnutrition, have deformed backs and shoulders which are the result of carrying loads too heavy for them, as well as respiratory and skin infections.

(5) One of the most egregious examples of the use of child soldiers is the abduction thousands of children, some as young as 8 years of age, by the Lord's Resistance Army (in this section referred to as the ''LRA'') in northern Uganda.

(6) The Department of State's Country Reports on Human Rights Practices For 1999 reports that in Uganda the LRA abducted children ''to be guerillas and tortured them by beating them, raping them, forcing them to march until collapse, and denying them adequate food, water, or shelter''.

(7) Children who manage to escape from LRA captivity have little access to trauma care and rehabilitation programs, and many find their families displaced, missing, dead, or fearful of having their children return home.

(8) A large number of children have participated and been killed in the armed conflict in Sri Lanka, and the use of children as soldiers has led to a breakdown in law and order in Sierra Leone.

(b) SENSE OF CONGRESS.—

(1) CONDEMNATION.—Congress hereby joins the international community in condemning the use of children as soldiers and other combatants by governmental and non-governmental armed forces.

(2) FURTHER SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of State should—

(A) study the issue of the rehabilitation of former child soldiers, the manner in which their suffering can be alleviated, and the positive role that the United States can play in such an effort; and

(B) submit a report to Congress on the issue of rehabilitation of child soldiers and their families.

SEC. 731. TECHNICAL CORRECTIONS.

(a) Section 1422(b)(3)(B) of the Foreign Affairs Reform and Restructuring Act (as contained in division G of Public Law 105–277; 112 Stat. 2681–792) is amended by striking ''divisionAct'' and inserting ''division''.

(b) Section 1002(a) of the Foreign Affairs Reform and Restructuring Act (as contained in division G of Public Law 105–277; 112 Stat. 2681–762) is amended by striking paragraph (3).

(c) The table of contents of division G of Public Law 105–277 (112 Stat. 2681–762) is amended by striking ''DIVISION__'' and inserting ''DIVISION G''.

SEC. 732. REPORTS WITH RESPECT TO A REFERENDUM ON WESTERN SAHARA.

(a) REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than each of the dates specified in paragraph (2), the Secretary of State shall submit a report to the appropriate congressional committees describing specific steps being taken by the Government of Morocco and by the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (POLISARIO) to ensure that a free, fair, and transparent referendum in which the people of the Western Sahara will choose between independence and integration with Morocco will be held by July 2000.

(2) DEADLINES FOR SUBMISSION OF REPORTS.—The dates referred to in paragraph (1) are January 1, 2000, and June 1, 2000.

(b) REPORT ELEMENTS.—The report shall include—

(1) a description of preparations for the referendum, including the extent to which free access to the territory for independent international organizations, including election observers and international media, will be guaranteed;

(2) a description of current efforts by the Department of State to ensure that a referendum will be held by July 2000;

(3) an assessment of the likelihood that the July 2000 date will be met;

(4) a description of obstacles, if any, to the voter-registration process and other preparations for the referendum, and efforts being made by the parties and the United States Government to overcome those obstacles; and

(5) an assessment of progress being made in the repatriation process.

SEC. 733. SELF-DETERMINATION IN EAST TIMOR

(a) FINDINGS.—The Congress finds as follows:

(1) On May 5, 1999, the Governments of Indonesia and Portugal signed an agreement that provides for an August 8, 1999 ballot organized by the United Nations on East Timor's political status.

(2) On June 22, 1999, the ballot was rescheduled for August 21 or August 22 due to concerns that the conditions necessary for a free and fair vote could not be established prior to August 8.

(3) On January 27, 1999, President Habibie expressed a willingness to consider independence for East Timor if a majority of the East Timorese reject autonomy in the August ballot.

(4) Under the May 5th agreement the Government of Indonesia is responsible for ensuring that the August ballot is carried out in a fair and peaceful way in an atmosphere free of intimidation, violence or interference.

(5) The inclusion of anti-independence militia members in Indonesian forces responsible for establishing security in East Timor violates the May 5th agreement which states that the absolute neutrality of the military and police is essential for holding a free and fair ballot.

(6) The arming of anti-independence militias by members of the Indonesian military

for the purpose of sabotaging the August ballot has resulted in hundreds of civilians killed, injured or disappeared in separate attacks by these militias who continue to act without restraint.

(7) The United Nations Secretary General has received credible reports of political violence, including intimidation and killings, by armed anti-independence militias against unarmed pro-independence civilians.

(8) There have been killings of opponents of independence, including civilians and militia members.

(9) The killings in East Timor should be fully investigated and the individuals responsible brought to justice.

(10) Access to East Timor by international human rights monitors and humanitarian organizations is limited, and members of the press have been threatened.

(11) The presence of members of the United Nations Assistance Mission in East Timor has already resulted in an improved security environment in the East Timorese capital of Dili.

(12) A robust international observer mission and police force throughout East Timor is critical to creating a stable and secure environment necessary for a free and fair ballot.

(13) The Administration should be commended for its support for the United Nations Assistance Mission in East Timor which will provide monitoring and support for the ballot and include international civilian police, military liaison officers and election monitors.

(b) POLICY.—(1) The President, Secretary of State, Secretary of Defense, and the Secretary of the Treasury (acting through the United States executive directors to international financial institutions) should immediately intensify their efforts to prevail upon the Indonesian Government and military to—

(A) disarm and disband anti-independence militias;

(B) grant full access to East Timor by international human rights monitors, humanitarian organizations, and the press;

(C) allow Timorese who have been living in exile to return to East Timor to participate in the ballot.

(2) The President should submit a report to the Congress not later than 21 days after passage of this Act, containing a description of the Administration's efforts and his assessment of steps taken by the Indonesian Government and military to ensure a stable and secure environment in East Timor, including those steps described in paragraph (1).

SEC. 734. 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, war 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.

SEC. 735. SUPPORT FOR THE PEACE PROCESS IN SUDAN.

(a) FINDINGS.—Congress finds that—

(1) the civil war in Sudan has continued unabated for 16 years and raged intermittently for 40 years;

(2) an estimated 1,900,000 Sudanese people have died as a result of war-related causes and famine;

(3) an estimated 4,000,000 people are currently in need of emergency food assistance in different areas of Sudan;

(4) approximately 4,000,000 people are internally displaced in Sudan;

(5) the continuation of war has led to human rights abuses by all parties to the conflict, including the killing of civilians, slavery, rape, and torture on the part of government forces and paramilitary forces; and

(6) it is in the interest of all the people of Sudan for the parties to the conflict to seek a negotiated settlement of hostilities and the establishment of a lasting peace in Sudan.

(b) SENSE OF CONGRESS.—(1) Congress—

(A) acknowledges the renewed vigor in facilitating and assisting the Inter-Governmental Authority for Development (IGAD) peace process in Sudan; and

(B) urges continued and sustained engagement by the Department of State in the IGAD peace process and the IGAD Partners' Forum.

(2) It is the sense of Congress that the President should—

(A) appoint a special envoy—

(i) to serve as a point of contact for the Inter-Governmental Authority for Development peace process;

(ii) to coordinate with the Inter-Governmental Authority for Development Partners Forum as the Forum works to support the peace process in Sudan; and

(iii) to coordinate United States humanitarian assistance to southern Sudan.

(B) provide increased financial and technical support for the IGAD Peace Process and especially the IGAD Secretariat in Nairobi, Kenya; and

(C) instruct the United States Permanent Representative to the United Nations to call on the United Nations Secretary General to consider the appointment of a special envoy for Sudan.

SEC. 736. EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE TREATMENT OF RELIGIOUS MINORITIES IN THE ISLAMIC REPUBLIC OF IRAN, AND PARTICULARLY THE RECENT ARRESTS OF MEMBERS OF THAT COUNTRY'S JEWISH COMMUNITY.

(a) FINDINGS.—The Senate finds that—

(1) ten percent of the citizens of the Islamic Republic of Iran are members of religious minority groups;

(2) according to the State Department and internationally recognized human rights organizations, such as Human Rights Watch and Amnesty International, religious minorities in the Islamic Republic of Iran—including Sunni Muslims, Baha'is, Christians, and Jews—have been the victims of human rights violations solely because of their status as religious minorities;

(3) the 55th session of the United Nations Commission on Human Rights passed Resolution 1999/13, which expresses the concern of the international community over ''continued discrimination against religious minorities'' in the Islamic Republic of Iran, and calls on that country to moderate its policy on religious minorities until they are ''completely emancipated'';

(4) more than half the Jews in Iran have been forced to flee that country since the Islamic Revolution of 1979 because of religious persecution, and many of them now reside in the United States;

(5) the Iranian Jewish community, with a 2,500-year history and currently numbering some 30,000 people, is the oldest Jewish community living in the Diaspora;

(6) five Jews have been executed by the Iranian government in the past five years without having been tried;

(7) there has been a noticeable increase recently in anti-Semitic propaganda in the government-controlled Iranian press;

(8) on the eve of the Jewish holiday of Passover 1999, thirteen or more Jews, including community and religious leaders in the city of Shiraz, were arrested by the authorities of the Islamic Republic of Iran; and

(9) in keeping with its dismal record on providing accused prisoners with due process and fair treatment, the Islamic Republic of Iran failed to charge the detained Jews with any specific crime or allow visitation by relatives of the detained for more than two months.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should—

(1) continue to work through the United Nations to assure that the Islamic Republic of Iran implements the recommendations of Resolution 1999/13;

(2) condemn, in the strongest possible terms, the recent arrest of members of Iran's Jewish minority and urge their immediate release;

(3) urge all nations having relations with the Islamic Republic of Iran to condemn the treatment of religious minorities in Iran and call for the release of all prisoners held on the basis of their religious beliefs; and

(4) maintain the current United States policy toward the Islamic Republic of Iran unless and until that country moderates its treatment of religious minorities.

SEC. 737. REPORTING REQUIREMENTS UNDER PLO COMMITMENTS COMPLIANCE ACT OF 1989.

(a) FINDINGS.—Congress makes the following findings:

(1) The PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) requires the President to submit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate every 180 days, on Palestinian compliance with the Geneva commitments of 1988, the commitments contained in the letter of September 9, 1993 to the Prime Minister of Israel, and the letter of September 9, 1993 to the Foreign Minister of Norway.

(2) The reporting requirements of the PLO Commitments Compliance Act of 1989 have remained in force from enactment until the present.

(3) Modification and amendment to the PLO Commitments Compliance Act of 1989, and the expiration of the Middle East Peace Facilitation Act (Public Law 104–107) did not alter the reporting requirements.

(4) According to the official records of the Committee on Foreign Relations of the Senate, the last report under the PLO Commitments Compliance Act of 1989 was submitted and received on December 27, 1997.

(b) REPORTING REQUIREMENTS.—The PLO Commitments Compliance Act of 1989 is amended —

(1) in section 804(b), by striking ''In conjunction with each written policy justification required under section 604(b)(1) of the Middle East Peace Facilitation Act of 1995 or every'' and inserting ''Every'';

(2) in section 804(b)—

(A) by striking ''and'' at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10); and

(C) by adding at the end the following new paragraphs:

''(11) a statement on the effectiveness of end-use monitoring of international or United States aid being provided to the Palestinian Authority, Palestinian Liberation Organization, or the Palestinian Legislative Council, or to any other agent or instrumentality of the Palestinian Authority, on Palestinian efforts to comply with international accounting standards and on enforcement of anti-corruption measures; and

''(12) a statement on compliance by the Palestinian Authority with the democratic reforms, with specific details regarding the separation of powers called for between the executive and Legislative Council, the status of legislation passed by the Legislative Council and sent to the executive, the support of the executive for local and municipal elections, the status of freedom of the press, and of the ability of the press to broadcast debate from within the Legislative Council and about the activities of the Legislative Council.''.

SEC. 738. REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this legislation and every 6 months thereafter, the Secretary of State shall prepare and submit a report, with a classified annex as necessary, to the appropriate congressional committees regarding terrorist attacks in Israel, in territory administered by Israel, and in territory administered by the Palestinian Authority. The report shall contain the following information:

(1) A list of formal commitments the Palestinian Authority has made to combat terrorism.

(2) A list of terrorist attacks, occurring between September 13, 1993 and the date of the report, against United States citizens in Israel, in territory administered by Israel, or in territory administered by the Palestinian Authority, including—

(A) a list of all citizens of the United States killed or injured in such attacks;

(B) the date of each attack, the total number of people killed or injured in each attack;

(C) the person or group claiming responsibility for the attack and where such person or group has found refuge or support;

(D) a list of suspects implicated in each attack and the nationality of each suspect, including information on—

(i) which suspects are in the custody of the Palestinian Authority and which suspects are in the custody of Israel;

(ii) which suspects are still at large in areas controlled by the Palestinian Authority or Israel; and

(iii) the whereabouts (or suspected whereabouts) of suspects implicated in each attack.

(3) Of the suspects implicated in the attacks described in paragraph (2) and detained by Palestinian or Israeli authorities, information on—

(A) the date each suspect was incarcerated;

(B) whether any suspects have been released, the date of such release, and whether any released suspect was implicated in subsequent acts of terrorism; and

(C) the status of each case pending against a suspect, including information on whether the suspect has been indicted, prosecuted, or convicted by the Palestinian Authority or Israel.

(4) The policy of the Department of State with respect to offering rewards for information on terrorist suspects, including any information on whether a reward has been posted for suspects involved in terrorist attacks listed in the report.

(5) A list of each request by the United States for assistance in investigating terrorist attacks listed in the report, a list of each request by the United States for the transfer of terrorist suspects from the Palestinian Authority and Israel since September 13, 1993 and the response to each request from the Palestinian Authority and Israel.

(6) A description of efforts made by United States officials since September 13, 1993 to bring to justice perpetrators of terrorist acts against United States citizens as listed in the report.

(7) A list of any terrorist suspects in these cases who are members of Palestinian police or security forces, the Palestine Liberation Organization, or any Palestinian governing body.

(8) A list of all United States citizens killed or injured in terrorist attacks in Israel or in territory administered by Israel between 1950 and September 13, 1993, to include in each case, where such information is available, any stated claim of responsibility and the resolution or disposition of each case, including information as to the whereabouts of the perpetrators of the acts: *Provided*, That this list shall be submitted only once with the initial report required under this section, unless additional relevant information on these cases becomes available.

(9) The amount of compensation the United States has requested for United States citizens, or their families, injured or killed in attacks by terrorists in Israel, in territory administered by Israel, or in territory administered by the Palestinian Authority since September 13, 1993, and, if no compensation has been requested, an explanation of why such requests have not been made.

(b) CONSULTATION WITH OTHER DEPARTMENTS.—The Secretary of State shall, in preparing the report required by this section, consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and methods or other vital national security interests or jeopardize ongoing criminal investigations or proceedings.

(c) INITIAL REPORT.—Except as provided in subsection (a)(8), the initial report filed under this section shall cover the period between September 13, 1993 and the date of the report.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of this section, the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 739. SENSE OF SENATE REGARDING CHILD LABOR.

(a) FINDINGS.—The Senate makes the following findings:

(1) The International Labor Organization (in this resolution referred to as the ''ILO'') estimates that at least 250,000,000 children under the age of 15 are working around the world, many of them in dangerous jobs that prevent them from pursuing an education and damage their physical and moral well-being.

(2) Children are the most vulnerable element of society and are often abused physically and mentally in the work place.

(3) Making children work endangers their education, health, and normal development.

(4) UNICEF estimates that by the year 2000, over 1,000,000,000 adults will be unable to read or write on even a basic level because they had to work as children and were not educated.

(5) Nearly 41 percent of the children in Africa, 22 percent in Asia, and 17 percent in Latin America go to work without ever having seen the inside of a classroom.

(6) The President, in his State of the Union address, called abusive child labor ''the most intolerable labor practice of all,'' and called upon other countries to join in the fight against abusive and exploitative child labor.

(7) The Department of Labor has conducted 5 detailed studies that document the growing trend of child labor in the global economy, including a study that shows children as young as 4 are making assorted products that are traded in the global marketplace.

(8) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment among adults, low living standards, and insufficient education and training opportunities among adult workers and children.

(9) The ILO has unanimously reported a new Convention on the Worst Forms of Child Labor.

(10) The United States negotiators played a leading role in the negotiations leading up to the successful conclusion of the new ILO Convention on the Worst Forms of Child Labor.

(11) On September 23, 1993, the United States Senate unanimously adopted a resolution stating its opposition to the importation of products made by abusive and exploitative child labor and the exploitation of children for commercial gain.

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

(1) abusive and exploitative child labor should not be tolerated anywhere it occurs;

(2) ILO member States should be commended for their efforts in negotiating this historic convention;

(3) it should be the policy of the United States to continue to work with all foreign nations and international organizations to promote an end to abusive and exploitative child labor; and

(4) the Senate looks forward to the prompt submission by the President of the new ILO Convention on the Worst Forms of Child Labor.

SEC. 740. REPORTING REQUIREMENT ON WORLDWIDE CIRCULATION OF SMALL ARMS AND LIGHT WEAPONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In numerous regional conflicts, the presence of vast numbers of small arms and light weapons has prolonged and exacerbated conflict and frustrated attempts by the international community to secure lasting peace. The sheer volume of available weaponry has been a major factor in the devastation witnessed in recent conflicts in Angola, Cambodia, Liberia, Mozambique, Rwanda, Sierra Leone, Somalia, Sri Lanka, and Afghanistan, among others, and has contributed to the violence endemic to narcotrafficking in Colombia and Mexico.

(2) Increased access by terrorists, guerrilla groups, criminals, and others to small arms and light weapons poses a real threat to United States participants in peacekeeping operations and United States forces based overseas, as well as to United States citizens traveling overseas.

(3) In accordance with the reorganization of the Department of State made by the Foreign Affairs Reform and Restructuring Act of 1998, effective March 28, 1999, all functions and authorities of the Arms Control and Disarmament Agency were transferred to the Secretary of State. One of the stated goals of that Act is to integrate the Arms Control

and Disarmament Agency into the Department of State ''to give new emphasis to a broad range of efforts to curb proliferation of dangerous weapons and delivery systems''.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report containing—

(1) an assessment of whether the export of small arms poses any proliferation problems including—

(A) estimates of the numbers and sources of licit and illicit small arms and light arms in circulation and their origins;

(B) the challenges associated with monitoring small arms; and

(C) the political, economic, and security dimensions of this issue, and the threats posed, if any, by these weapons to United States interests, including national security interests;

(2) an assessment of whether the export of small arms of the type sold commercially in the United States should be considered a foreign policy or proliferation issue;

(3) a description of current Department of State activities to monitor and, to the extent possible ensure adequate control of, both the licit and illicit manufacture, transfer, and proliferation of small arms and light weapons, including efforts to survey and assess this matter with respect to Africa and to survey and assess the scope and scale of the issue, including stockpile security and destruction of excess inventory, in NATO and Partnership for Peace countries;

(4) a description of the impact of the reorganization of the Department of State made by the Foreign Affairs Reform and Restructuring Act of 1998 on the transfer of functions relating to monitoring, licensing, analysis, and policy on small arms and light weapons, including—

(A) the integration of and the functions relating to small arms and light weapons of the United States Arms Control and Disarmament Agency with those of the Department of State;

(B) the functions of the Bureau of Arms Control, the Bureau of Nonproliferation, the Bureau of Political-Military Affairs, the Bureau of International Narcotics and Law Enforcement, regional bureaus, and any other relevant bureau or office of the Department of State, including the allocation of personnel and funds, as they pertain to small arms and light weapons;

(C) the functions of the regional bureaus of the Department of State in providing information and policy coordination in bilateral and multilateral settings on small arms and light weapons;

(D) the functions of the Under Secretary of State for Arms Control and International Security pertaining to small arms and light weapons; and

(E) the functions of the scientific and policy advisory board on arms control, nonproliferation, and disarmament pertaining to small arms and light weapons; and

(5) an assessment of whether foreign governments are enforcing their own laws concerning small arms and light weapons import and sale, including commitments under the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials or other relevant international agreements.

Subtitle C—United States Entry-Exit Controls

SEC. 751. AMENDMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

(a) IN GENERAL.—Section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows:

''(a) SYSTEM.—

''(1) IN GENERAL.—Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

''(A) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; and

''(B) enable the Attorney General to identify, through online searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

''(2) EXCEPTION.—The system under paragraph (1) shall not collect a record of arrival or departure—

''(A) at a land border or seaport of the United States for any alien; or

''(B) for any alien for whom the documentary requirements in section 212(a)(7)(B) of the Immigration and Nationality Act have been waived by the Attorney General and the Secretary of State under section 212(d)(4)(B) of the Immigration and Nationality Act.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

SEC. 752. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(b) CONTENTS OF REPORT.—Such report shall—

(1) assess the costs and feasibility of various means of operating such an automated entry-exit control system, including exploring—

(A) how, if the automated entry-exit control system were limited to certain aliens arriving at airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(B) the feasibility of the Attorney General, in consultation with the Secretary of State, negotiating reciprocal agreements with the governments of contiguous countries to collect such information on behalf of the United States and share it in an acceptable automated format;

(2) consider the various means of developing such a system, including the use of pilot projects if appropriate, and assess which means would be most appropriate in which geographical regions;

(3) evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and

(4) estimate the length of time that would be required for any such system to be developed and implemented.

SEC. 753. ANNUAL REPORTS ON ENTRY-EXIT CONTROL AND USE OF ENTRY-EXIT CONTROL DATA.

(a) ANNUAL REPORTS ON IMPLEMENTATION OF ENTRY-EXIT CONTROL AT AIRPORTS.—Not later than 30 days after the end of each fiscal year until the fiscal year in which the Attorney General certifies to Congress that the entry-exit control system required by section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 751 of this Act, has been developed, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that—

(1) provides an accurate assessment of the status of the development of the entry-exit control system;

(2) includes a specific schedule for the development of the entry-exit control system that the Attorney General anticipates will be met; and

(3) includes a detailed estimate of the funding, if any, needed for the development of the entry-exit control system.

(b) ANNUAL REPORTS ON VISA OVERSTAYS IDENTIFIED THROUGH THE ENTRY-EXIT CONTROL SYSTEM.—Not later than June 30 of each year, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that sets forth—

(1) the number of arrival records of aliens and the number of departure records of aliens that were collected during the preceding fiscal year under the entry-exit control system under section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as so amended, with a separate accounting of such numbers by country of nationality;

(2) the number of departure records of aliens that were successfully matched to records of such aliens' prior arrival in the United States, with a separate accounting of such numbers by country of nationality and by classification as immigrant or nonimmigrant; and

(3) the number of aliens who arrived as nonimmigrants, or as visitors under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system, or through other means, as of the end of such aliens' authorized period of stay, with an accounting by country of nationality and approximate date of arrival in the United States.

(c) INCORPORATION INTO OTHER DATABASES.—Information regarding aliens who have remained in the United States beyond their authorized period of stay that is identified through the system referred to in subsection (a) shall be integrated into appropriate databases of the Immigration and Naturalization Service and the Department of State, including those used at ports-of-entry and at consular offices.

TITLE VIII—INTERNATIONAL ORGANIZATIONS AND COMMISSIONS

Subtitle A—Authorizations of Appropriations

SEC. 801. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated under the heading ''Contributions to International Organizations'' $940,000,000 for the fiscal year 2000 and $940,000,000 for the fiscal year 2001 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(2) AVAILABILITY OF FUNDS FOR CIVIL BUDGET OF NATO.—Of the amounts authorized in paragraph (1), $48,977,000 are authorized in fiscal year 2000 and $48,977,000 in fiscal year 2001 for the United States assessment for the civil budget of the North Atlantic Treaty Organization.

(b) NO GROWTH BUDGET.—Of the funds made available under subsection (a), $80,000,000

may be made available during each calendar year only after the Secretary of State certifies that the United Nations has taken no action during the preceding calendar year to increase funding for any United Nations program without identifying an offsetting decrease during that calendar year elsewhere in the United Nations budget of $2,533,000,000, and cause the United Nations to exceed the initial 1998–99 United Nations biennium budget adopted in December 1997.

(c) INSPECTOR GENERAL OF THE UNITED NATIONS.—

(1) WITHHOLDING OF FUNDS.—Twenty percent of the funds made available in each fiscal year under subsection (a) for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under paragraph (2).

(2) CERTIFICATION.—A certification under this paragraph is a certification by the Secretary of State in the fiscal year concerned that the following conditions are satisfied:

(A) ACTION BY THE UNITED NATIONS.—The United Nations—

(i) has met the requirements of paragraphs (1) through (6) of section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), as amended by paragraph (3);

(ii) has established procedures that require the Under Secretary General of the Office of Internal Oversight Services to report directly to the Secretary General on the adequacy of the Office's resources to enable the Office to fulfill its mandate; and

(iii) has made available an adequate amount of funds to the Office for carrying out its functions.

(B) AUTHORITY BY OIOS.—The Office of Internal Oversight Services has authority to audit, inspect, or investigate each program, project, or activity funded by the United Nations, and each executive board created under the United Nations has been notified, in writing, of that authority.

(3) AMENDMENT OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995.—Section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 is amended—

(A) by amending paragraph (6) to read as follows:

''(6) the United Nations has procedures in place to ensure that all reports submitted by the Office of Internal Oversight Services are made available to the member states of the United Nations without modification except to the extent necessary to protect the privacy rights of individuals.''; and

(B) by striking ''Inspector General'' each place it appears and inserting ''Office of Internal Oversight Services''.

(d) PROHIBITION ON CERTAIN GLOBAL CONFERENCES.—None of the funds made available under subsection (a) shall be available for any United States contribution to pay for any expense related to the holding of any United Nations global conference, except for any conference scheduled prior to October 1, 1998.

(e) PROHIBITION ON FUNDING OTHER FRAMEWORK TREATY-BASED ORGANIZATIONS.—None of the funds made available for the 1998–1999 biennium budget under subsection (a) for United States contributions to the regular budget of the United Nations shall be available for the United States proportionate share of any other framework treaty-based organization, including the Framework Convention on Global Climate Change, the International Seabed Authority, the Desertification Convention, and the International Criminal Court.

(f) FOREIGN CURRENCY EXCHANGE RATES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 and 2001 to offset adverse fluctuations in foreign currency exchange rates.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

(g) REFUND OF EXCESS CONTRIBUTIONS.—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the agency concerned its proportionate share of the amount by which the total contributions to the agency exceed the expenditures of the regular assessed budgets of these agencies.

SEC. 802. CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated under the heading ''Contributions for International Peacekeeping Activities'' $235,000,000 for the fiscal year 2000 and $235,000,000 for the fiscal year 2001 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(b) CODIFICATION OF REQUIRED NOTICE OF PROPOSED UNITED NATIONS PEACEKEEPING OPERATIONS.—

(1) CODIFICATION.—Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b) is amended—

(A) in subsection (a), by striking the second sentence; and

(B) by striking subsection (e) and inserting the following:

''(e) CONSULTATIONS AND REPORTS ON UNITED NATIONS PEACEKEEPING OPERATIONS.—

''(1) CONSULTATIONS.—Each month the President shall consult with Congress on the status of United Nations peacekeeping operations.

''(2) INFORMATION TO BE PROVIDED.—In connection with such consultations, the following information shall be provided each month to the designated congressional committees:

''(A) With respect to ongoing United Nations peacekeeping operations, the following:

''(i) A list of all resolutions of the United Nations Security Council anticipated to be voted on during such month that would extend or change the mandate of any United Nations peacekeeping operation.

''(ii) For each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the adoption of the resolution.

''(iii) An estimate of the total cost to the United Nations of each such operation for the period covered by the resolution, and an estimate of the amount of that cost that will be assessed to the United States.

''(iv) Any anticipated significant changes in United States participation in or support for each such operation during the period covered by the resolution (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and the estimated costs to the United States of such changes.

''(B) With respect to each new United Nations peacekeeping operation that is anticipated to be authorized by a Security Council resolution during such month, the following information for the period covered by the resolution:

''(i) The anticipated duration, mandate, and command and control arrangements of such operation, the planned exit strategy, and the vital national interest to be served.

''(ii) An estimate of the total cost to the United Nations of the operation, and an estimate of the amount of that cost that will be assessed to the United States.

''(iii) A description of the functions that would be performed by any United States Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the United States of such participation or support.

''(iv) A description of any other United States assistance to or support for the operation (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and an estimate of the cost to the United States of such assistance or support.

''(v) A reprogramming of funds pursuant to section 34 of the State Department Basic Authorities Act of 1956, submitted in accordance with the procedures set forth in such section, describing the source of funds that will be used to pay for the cost of the new United Nations peacekeeping operation, provided that such notification shall also be submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

''(3) FORM AND TIMING OF INFORMATION.—

''(A) FORM.—The President shall submit information under clauses (i) and (iii) of paragraph (2)(A) in writing.

''(B) TIMING.—

''(i) ONGOING OPERATIONS.—The information required under paragraph (2)(A) for a month shall be submitted not later than the 10th day of the month.

''(ii) NEW OPERATIONS.—The information required under paragraph (2)(B) shall be submitted in writing with respect to each new United Nations peacekeeping operation not less than 15 days before the anticipated date of the vote on the resolution concerned unless the President determines that exceptional circumstances prevent compliance with the requirement to report 15 days in advance. If the President makes such a determination, the information required under paragraph (2)(B) shall be submitted as far in advance of the vote as is practicable.

''(4) NEW UNITED NATIONS PEACEKEEPING OPERATION DEFINED.—As used in paragraph (2), the term 'new United Nations peacekeeping operation' includes any existing or otherwise ongoing United Nations peacekeeping operation—

''(A) where the authorized force strength is to be expanded;

''(B) that is to be authorized to operate in a country in which it was not previously authorized to operate; or

''(C) the mandate of which is to be changed so that the operation would be engaged in significant additional or significantly different functions.

''(5) NOTIFICATION AND QUARTERLY REPORTS REGARDING UNITED STATES ASSISTANCE.—

''(A) NOTIFICATION OF CERTAIN ASSISTANCE.—

''(i) IN GENERAL.—The President shall notify the designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations.

''(ii) EXCEPTION.—This subparagraph does not apply to—

''(I) assistance having a value of less than $3,000,000 in the case of nonreimbursable assistance or less than $14,000,000 in the case of reimbursable assistance; or

''(II) assistance provided under the emergency drawdown authority of sections 506(a)(1) and 552(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1) and 2348a(c)(2)).

''(B) QUARTERLY REPORTS.—

''(i) IN GENERAL.—The President shall submit quarterly reports to the designated congressional committees on all assistance provided by the United States during the preceding calendar quarter to the United Nations to support peacekeeping operations.

''(ii) MATTERS INCLUDED.—Each report under this subparagraph shall describe the assistance provided for each such operation, listed by category of assistance.

''(iii) FOURTH QUARTER REPORT.—The report under this subparagraph for the fourth calendar quarter of each year shall be submitted as part of the annual report required by subsection (d) and shall include cumulative information for the preceding calendar year.

''(f) DESIGNATED CONGRESSIONAL COMMITTEES.—In this section, the term 'designated congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.''.

(2) CONFORMING REPEAL.—Subsection (a) of section 407 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 22 U.S.C. 287b note; 108 Stat. 448) is repealed.

(c) RELATIONSHIP TO OTHER NOTICE REQUIREMENTS.—Section 4 of the United Nations Participation Act of 1945, as amended by subsection (b), is further amended by adding at the end the following:

''(g) RELATIONSHIP TO OTHER NOTIFICATION REQUIREMENTS.—Nothing in this section is intended to alter or supersede any notification requirement with respect to peacekeeping operations that is established under any other provision of law.''.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTIONS TO THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.

There are authorized to be appropriated to the President $5,000,000 for each of the fiscal years 2000 and 2001 for payment of contributions to the United Nations Voluntary Fund for Victims of Torture.

Subtitle B—United Nations Activities

SEC. 811. UNITED NATIONS POLICY ON ISRAEL AND THE PALESTINIANS.

(a) CONGRESSIONAL STATEMENT.—It shall be the policy of the United States to promote an end to the persistent inequity experienced by Israel in the United Nations whereby Israel is the only longstanding member of the organization to be denied acceptance into any of the United Nations regional blocs.

(b) POLICY ON ABOLITION OF CERTAIN UNITED NATIONS GROUPS.—It shall be the policy of the United States to seek the abolition of certain United Nations groups the existence of which is inimical to the ongoing Middle East peace process, those groups being the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories; the Committee on the Exercise of the Inalienable Rights of the Palestinian People; the Division for the Palestinian Rights; and the Division on Public Information on the Question of Palestine.

(c) ANNUAL REPORTS.—On January 15 of each year, the Secretary of State shall submit a report to the appropriate congressional committees (in classified or unclassified form as appropriate) on—

(1) actions taken by representatives of the United States to encourage the nations of the Western Europe and Others Group (WEOG) to accept Israel into their regional bloc;

(2) other measures being undertaken, and which will be undertaken, to ensure and promote Israel's full and equal participation in the United Nations; and

(3) steps taken by the United States under subsection (b) to secure abolition by the United Nations of groups described in that subsection.

(d) ANNUAL CONSULTATION.—At the time of the submission of each annual report under subsection (c), the Secretary of State shall consult with the appropriate congressional committees on specific responses received by the Secretary of State from each of the nations of the Western Europe and Others Group (WEOG) on their position concerning Israel's acceptance into their organization.

SEC. 812. DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.

Chapter 6 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2348 et seq.) is amended by adding at the end the following:

''SEC. 554. DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.

''(a) UNITED STATES COSTS.—The President shall annually provide to the Secretary General of the United Nations data regarding all costs incurred by the United States Department of Defense during the preceding year in support of all United Nations Security Council resolutions.

''(b) UNITED NATIONS MEMBER COSTS.—The President shall request that the United Nations compile and publish information concerning costs incurred by United Nations members in support of such resolutions.''.

SEC. 813. REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

''SEC. 10. REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.

''(a) REQUIREMENT TO OBTAIN REIMBURSEMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the President shall seek and obtain in a timely fashion a commitment from the United Nations to provide reimbursement to the United States from the United Nations whenever the United States Government furnishes assistance pursuant to the provisions of law described in subsection (c)—

''(A) to the United Nations when the assistance is designed to facilitate or assist in carrying out an assessed peacekeeping operation;

''(B) for any United Nations peacekeeping operation that is authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping or regular budget assessment of the United Nations members; or

''(C) to any country participating in any operation authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping assessments of United Nations members when the assistance is designed to facilitate or assist the participation of that country in the operation.

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—The requirement in paragraph (1) shall not apply to—

''(i) goods and services provided to the United States Armed Forces;

''(ii) assistance having a value of less than $3,000,000 per fiscal year per operation;

''(iii) assistance furnished before the date of enactment of this section;

''(iv) salaries and expenses of civilian police and other civilian and military monitors where United Nations policy is to require payment by contributing members for similar assistance to United Nations peacekeeping operations; or

''(v) any assistance commitment made before the date of enactment of this section.

''(B) DEPLOYMENTS OF UNITED STATES MILITARY FORCES.— The requirements of subsection (d)(1)(B) shall not apply to the deployment of United States military forces when the President determines that such deployment is important to the security interests of the United States. The cost of such deployment shall be included in the data provided under section 554 of the Foreign Assistance Act of 1961.

''(3) FORM AND AMOUNT.—

''(A) AMOUNT.—The amount of any reimbursement under this subsection shall be determined at the usual rate established by the United Nations.

''(B) FORM.—Reimbursement under this subsection may include credits against the United States assessed contributions for United Nations peacekeeping operations, if the expenses incurred by any United States department or agency providing the assistance have first been reimbursed.

''(b) TREATMENT OF REIMBURSEMENTS.—

''(1) CREDIT.—The amount of any reimbursement paid the United States under subsection (a) shall be credited to the current applicable appropriation, fund, or account of the United States department or agency providing the assistance for which the reimbursement is paid.

''(2) AVAILABILITY.—Amounts credited under paragraph (1) shall be merged with the appropriations, or with appropriations in the fund or account, to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged.

''(c) COVERED ASSISTANCE.—Subsection (a) applies to assistance provided under the following provisions of law:

''(1) Sections 6 and 7 of this Act.

''(2) Sections 451, 506(a)(1), 516, 552(c), and 607 of the Foreign Assistance Act of 1961.

''(3) Any other provisions of law pursuant to which assistance is provided by the United States to carry out the mandate of an assessed United Nations peacekeeping operation.

''(d) WAIVER.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The President may authorize the furnishing of assistance covered by this section without regard to subsection (a) if the President determines, and so notifies in writing the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, that to do so is important to the security interests of the United States.

''(B) CONGRESSIONAL NOTIFICATION.—When exercising the authorities of subparagraph (A), the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

''(2) CONGRESSIONAL REVIEW.—Notwithstanding a notice under paragraph (1) with respect to assistance covered by this section, subsection (a) shall apply to the furnishing

of the assistance if, not later than 15 calendar days after receipt of a notification under that paragraph, the Congress enacts a joint resolution disapproving the determination of the President contained in the notification.

''(3) SENATE PROCEDURES.—Any joint resolution described in paragraph (2) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

''(e) RELATIONSHIP TO OTHER REIMBURSEMENT AUTHORITY.—Nothing in this section shall preclude the President from seeking reimbursement for assistance covered by this section that is in addition to the reimbursement sought for the assistance under subsection (a).

''(f) DEFINITION.—In this section, the term 'assistance' includes personnel, services, supplies, equipment, facilities, and other assistance if such assistance is provided by the Department of Defense or any other United States Government agency.''.

Subtitle C—International Organizations Other than the United Nations

SEC. 821. RESTRICTION RELATING TO UNITED STATES ACCESSION TO THE INTERNATIONAL CRIMINAL COURT.

(a) PROHIBITION.—The United States shall not become a party to the International Criminal Court except pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act.

(b) PROHIBITION.—None of the funds authorized to be appropriated by this or any other Act may be obligated for use by, or for support of, the International Criminal Court unless the United States has become a party to the Court pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act.

(c) INTERNATIONAL CRIMINAL COURT DEFINED.—In this section, the term ''International Criminal Court'' means the court established by the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

SEC. 822. PROHIBITION ON EXTRADITION OR TRANSFER OF UNITED STATES CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.

(a) PROHIBITION ON EXTRADITION.—None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign country that is under an obligation to surrender persons to the International Criminal Court unless that foreign country confirms to the United States that applicable prohibitions on reextradition apply to such surrender or gives other satisfactory assurances to the United States that the country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) PROHIBITION ON CONSENT TO EXTRADITION BY THIRD COUNTRIES.—None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country that is under an obligation to surrender persons to the International Criminal Court to a third country, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender or gives other satisfactory assurances to the United States that the third country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—In this section, the term ''International Criminal Court'' has the meaning given the term in section 821(c) of this Act.

SEC. 823. PERMANENT REQUIREMENT FOR REPORTS REGARDING FOREIGN TRAVEL.

Section 2505 of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105–277) is amended—

(1) in subsection (a), by striking ''by this division for fiscal year 1999'' and inserting ''for the Department of State for any fiscal year''; and

(2) in subsection (d), by striking ''not later than April 1, 1999,'' and inserting ''on April 1 and October 1 of each year''.

SEC. 824. ASSISTANCE TO STATES AND LOCAL GOVERNMENTS BY THE INTERNATIONAL BOUNDARY AND WATER COMMISSION.

(a) AUTHORITY.—Upon the request of a State or local government, the Commissioner of the United States Section of the International Boundary and Water Commission may provide, on a reimbursable basis, technical tests, evaluations, information, surveys, or other similar services to that government.

(b) REIMBURSEMENTS.—

(1) AMOUNT OF REIMBURSEMENT.—Reimbursement for services under subsection (a) shall be made before the services are provided and shall be in an amount equal to the estimated or actual cost of providing the goods or services, as determined by the United States Section of the International Boundary and Water Commission. Proper adjustment of amounts paid in advance by the recipient of the services shall be made as agreed to by the United States Section of the International Boundary and Water Commission on the basis of the actual cost of goods or services provided.

(2) CREDITING APPLICABLE APPROPRIATION ACCOUNT.—Reimbursements received by the United States Section of the International Boundary and Water Commission for providing services under this section shall be deposited as an offsetting collection to the appropriation account from which the cost of providing the services has been paid or will be charged.

SEC. 825. UNITED STATES REPRESENTATION AT THE INTERNATIONAL ATOMIC ENERGY AGENCY.

(a) AMENDMENT TO THE UNITED NATIONS PARTICIPATION ACT OF 1945.—Section 2(h) of the United Nations Participation Act of 1945 (22 U.S.C. 287(h)) is amended by adding at the end the following new sentence: ''The representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the International Atomic Energy Agency.''.

(b) AMENDMENT TO THE IAEA PARTICIPATION ACT OF 1957.—Section 2(a) of the International Atomic Energy Agency Participation Act of 1957 (22 U.S.C. 2021(a)) is amended by adding at the end the following new sentence: ''The Representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the Agency.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to individuals appointed on or after the date of enactment of this Act.

SEC. 826. ANNUAL FINANCIAL AUDITS OF UNITED STATES SECTION OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION.

(a) IN GENERAL.—An independent auditor shall annually conduct an audit of the financial statements and accompanying notes to the financial statements of the United States Section of the International Boundary and Water Commission, United States and Mexico (in this section referred to as the ''Commission''), in accordance with generally accepted Government auditing standards and such other procedures as may be established by the Office of the Inspector General of the Department of State.

(b) REPORTS.—The independent auditor shall report the results of such audit, including a description of the scope of the audit and an expression of opinion as to the overall fairness of the financial statements, to the International Boundary and Water Commission, United States and Mexico. The financial statements of the Commission shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the independent auditor shall be included in a report which the Commission shall submit to the Congress not later than 90 days after the end of the last fiscal year covered by the audit.

(c) REVIEW BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States (in this section referred to as the ''Comptroller General'') may review the audit conducted by the auditor and the report to the Congress in the manner and at such times as the Comptroller General considers necessary. In lieu of the audit required by subsection (b), the Comptroller General shall, if the Comptroller General considers it necessary or, upon the request of the Congress, audit the financial statements of the Commission in the manner provided in subsection (b).

(d) AVAILABILITY OF INFORMATION.—In the event of a review by the Comptroller General under subsection (c), all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Commission and the auditor who conducts the audit under subsection (b), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

SEC. 827. SENSE OF CONGRESS CONCERNING ICTR.

(a) FINDINGS.—The Congress finds as follows:

(1) The International Criminal Tribunal for Rwanda (ICTR) was established to prosecute individuals responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda.

(2) A separate tribunal, the International Criminal Tribunal for the Former Yugoslavia (ICTY), was created with a similar purpose for crimes committed in the territory of the former Yugoslavia.

(3) The acts of genocide and crimes against humanity that have been perpetrated against civilians in the Great Lakes region of Africa equal in horror the acts committed in the territory of the former Yugoslavia.

(4) The ICTR has succeeded in issuing at least 28 indictments against 48 individuals, and currently has in custody 38 individuals presumed to have led and directed the 1994 genocide.

(5) The ICTR issued the first conviction ever by an international court for the crime of genocide against Jean-Paul Akayesu, the former mayor of Taba, who was sentenced to life in prison.

(6) The mandate of the ICTR is limited to acts committed only during calendar year 1994, yet the mandate of the ICTY covers serious violations of international humanitarian law since 1991 through the present.

(7) There have been well substantiated allegations of major crimes against humanity and war crimes that have taken place in the Great Lakes region of Africa that fall outside of the current mandate of the Tribunal

in terms of either the dates when, or geographical areas where, such crimes took place.

(8) The attention accorded the ICTY and the indictments that have been made as a result of the ICTY's broad mandate continue to play an important role in current United States policy in the Balkans.

(9) The international community must send an unmistakable signal that genocide and other crimes against humanity cannot be committed with impunity.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should instruct the United States United Nations Representative to advocate to the Security Council to direct the Office for Internal Oversight Services (OIOS) to reevaluate the conduct and operation of the ICTR. Particularly, the OIOS should assess the progress made by the Tribunal in implementing the recommendations of the Report of the United Nations Secretary-General on the Activities of the Office of Internal Oversight Services, A/52/784, of February 6, 1998. The OIOS should also include an evaluation of the potential impact of expanding the original mandate of the ICTR.

(c) REPORT.—Ninety days after enactment of this Act, the Secretary of State shall report to Congress on the effectiveness and progress of the ICTR. The report shall include an assessment of the ICTR's ability to meet its current mandate and an evaluation of the potential impact of expanding that mandate to include crimes committed after calendar year 1994.

TITLE IX—ARREARS PAYMENTS AND REFORM

Subtitle A—General Provisions

SEC. 901. SHORT TITLE.

This title may be cited as the ''United Nations Reform Act of 1999''.

SEC. 902. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) DESIGNATED SPECIALIZED AGENCY DEFINED.—The term ''designated specialized agency'' means the International Labor Organization, the World Health Organization, and the Food and Agriculture Organization.

(3) GENERAL ASSEMBLY.—The term ''General Assembly'' means the General Assembly of the United Nations.

(4) SECRETARY GENERAL.—The term ''Secretary General'' means the Secretary General of the United Nations.

(5) SECURITY COUNCIL.—The term ''Security Council'' means the Security Council of the United Nations.

(6) UNITED NATIONS MEMBER.—The term ''United Nations member'' means any country that is a member of the United Nations.

(7) UNITED NATIONS PEACEKEEPING OPERATION.—The term ''United Nations peacekeeping operation'' means any United Nations-led operation to maintain or restore international peace or security that—

(A) is authorized by the Security Council; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping activities.

Subtitle B—Arrearages to the United Nations

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS; OBLIGATION AND EXPENDITURE OF FUNDS

SEC. 911. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) FISCAL YEAR 1998.—

(A) REGULAR ASSESSMENTS.—In title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119), under the heading ''Contributions to International Organizations'', the first proviso shall not apply.

(B) PEACEKEEPING ASSESSMENTS.—In title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119), under the heading ''Contributions for International Peacekeeping Activities'', the first and second provisos shall not apply.

(2) FISCAL YEAR 1999.—Pursuant to the first proviso under the heading ''Arrearage Payments'' in title IV of the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277), the obligation and expenditure of funds appropriated under such heading for payment of arrearages to meet obligations of membership in the United Nations, and to pay assessed expenses of international peacekeeping activities are hereby authorized, and the second proviso under such heading shall not apply.

(3) FISCAL YEAR 2000.—There are authorized to be appropriated to the Department of State for payment of arrearages owed by the United States described in subsection (b) as of September 30, 1997, $244,000,000 for fiscal year 2000.

(b) LIMITATION.—Amounts made available under subsection (a) are authorized to be available only—

(1) to pay the United States share of assessments for the regular budget of the United Nations;

(2) to pay the United States share of United Nations peacekeeping operations;

(3) to pay the United States share of United Nations specialized agencies; and

(4) to pay the United States share of other international organizations.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(d) STATUTORY CONSTRUCTION.—For purposes of payments made using funds made available under subsection (a), section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall not apply to United Nations peacekeeping operation assessments received by the United States prior to October 1, 1995.

SEC. 912. OBLIGATION AND EXPENDITURE OF FUNDS.

(a) IN GENERAL.—Funds made available pursuant to section 911 may be obligated and expended only if the requirements of subsections (b) and (c) of this section are satisfied.

(b) OBLIGATION AND EXPENDITURE UPON SATISFACTION OF CERTIFICATION REQUIREMENTS.—Subject to subsections (e) and (f), funds made available pursuant to section 911 may be obligated and expended only in the following allotments and upon the following certifications:

(1) Amounts made available for fiscal year 1998, upon the certification described in section 921.

(2) Amounts made available for fiscal year 1999, upon the certification described in section 931.

(3) Amounts authorized to be appropriated for fiscal year 2000, upon the certification described in section 941.

(c) ADVANCE CONGRESSIONAL NOTIFICATION.—Funds made available pursuant to section 911 may be obligated and expended only if the appropriate certification has been submitted to the appropriate congressional committees 30 days prior to the payment of the funds.

(d) TRANSMITTAL OF CERTIFICATIONS.—Certifications made under this chapter shall be transmitted by the Secretary of State to the appropriate congressional committees.

(e) WAIVER AUTHORITY WITH RESPECT TO FISCAL YEAR 1999 FUNDS.—

(1) IN GENERAL.—Subject to paragraph (3) and notwithstanding subsection (b), funds made available under section 911 for fiscal year 1999 may be obligated or expended pursuant to subsection (b)(2) even if the Secretary of State cannot certify that the condition described in section 931(b)(1) has been satisfied.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The authority to waive the condition described in paragraph (1) of this subsection may be exercised only if the Secretary of State—

(i) determines that substantial progress towards satisfying the condition has been made and that the expenditure of funds pursuant to that paragraph is important to the interests of the United States; and

(ii) has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) EFFECT ON SUBSEQUENT CERTIFICATION.—If the Secretary of State exercises the authority of paragraph (1), the condition described in that paragraph shall be deemed to have been satisfied for purposes of making any certification under section 941.

(3) ADDITIONAL REQUIREMENT.—If the authority to waive a condition under paragraph (1)(A) is exercised, the Secretary of State shall notify the United Nations that the Congress does not consider the United States obligated to pay, and does not intend to pay, arrearages that have not been included in the contested arrearages account or other mechanism described in section 931(b)(1).

(f) WAIVER AUTHORITY WITH RESPECT TO FISCAL YEAR 2000 FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding subsection (b), funds made available under section 911 for fiscal year 2000 may be obligated or expended pursuant to subsection (b)(3) even if the Secretary of State cannot certify that the condition described in paragraph (1) of section 941(b) has been satisfied.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The authority to waive a condition under paragraph (1) may be exercised only if the Secretary of State has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) EFFECT ON SUBSEQUENT CERTIFICATION.—If the Secretary of State exercises the authority of paragraph (1) with respect to a condition, such condition shall be deemed to have been satisfied for purposes of making any certification under section 941.

SEC. 913. FORGIVENESS OF AMOUNTS OWED BY THE UNITED NATIONS TO THE UNITED STATES.

(a) FORGIVENESS OF INDEBTEDNESS.—Subject to subsection (b), the President is authorized to forgive or reduce any amount owed by the United Nations to the United States as a reimbursement, including any reimbursement payable under the Foreign Assistance Act of 1961 or the United Nations Participation Act of 1945.

(b) LIMITATIONS.—

(1) TOTAL AMOUNT.—The total of amounts forgiven or reduced under subsection (a) may not exceed $107,000,000.

(2) RELATION TO UNITED STATES ARREARAGES.—Amounts shall be forgiven or reduced under this section only to the same extent as the United Nations forgives or reduces amounts owed by the United States to the United Nations as of September 30, 1997.

(c) REQUIREMENTS.—The authority in subsection (a) shall be available only to the extent and in the amounts provided in advance in appropriations Acts.

(d) CONGRESSIONAL NOTIFICATION.—Before exercising any authority in subsection (a), the President shall notify the appropriate congressional committees in accordance with the same procedures as are applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(e) EFFECTIVE DATE.—This section shall take effect on the date a certification is transmitted to the appropriate congressional committees under section 931.

CHAPTER 2—UNITED STATES SOVEREIGNTY

SEC. 921. CERTIFICATION REQUIREMENTS.

(a) CONTENTS OF CERTIFICATION.—A certification described in this section is a certification by the Secretary of State that the following conditions are satisfied:

(1) SUPREMACY OF THE UNITED STATES CONSTITUTION.—No action has been taken by the United Nations or any of its specialized or affiliated agencies that requires the United States to violate the United States Constitution or any law of the United States.

(2) NO UNITED NATIONS SOVEREIGNTY.—Neither the United Nations nor any of its specialized or affiliated agencies—

(A) has exercised sovereignty over the United States; or

(B) has taken any steps that require the United States to cede sovereignty.

(3) NO UNITED NATIONS TAXATION.—

(A) NO LEGAL AUTHORITY.—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has the authority under United States law to impose taxes or fees on United States nationals.

(B) NO TAXES OR FEES.—Except as provided in subparagraph (D), a tax or fee has not been imposed on any United States national by the United Nations or any of its specialized or affiliated agencies.

(C) NO TAXATION PROPOSALS.—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has, on or after October 1, 1996, officially approved any formal effort to develop, advocate, or promote any proposal concerning the imposition of a tax or fee on any United States national in order to raise revenue for the United Nations or any such agency.

(D) EXCEPTION.—This paragraph does not apply to—

(i) fees for publications or other kinds of fees that are not tantamount to a tax on United States citizens;

(ii) the World Intellectual Property Organization; or

(iii) the staff assessment costs of the United Nations and its specialized or affiliated agencies.

(4) NO STANDING ARMY.—The United Nations has not, on or after October 1, 1996, budgeted any funds for, nor taken any official steps to develop, create, or establish any special agreement under Article 43 of the United Nations Charter to make available to the United Nations, on its call, the armed forces of any member of the United Nations.

(5) NO INTEREST FEES.—The United Nations has not, on or after October 1, 1996, levied interest penalties against the United States or any interest on arrearages on the annual assessment of the United States, and neither the United Nations nor its specialized agencies have, on or after October 1, 1996, amended their financial regulations or taken any other action that would permit interest penalties to be levied against the United States or otherwise charge the United States any interest on arrearages on its annual assessment.

(6) UNITED STATES REAL PROPERTY RIGHTS.—Neither the United Nations nor any of its specialized or affiliated agencies has exercised authority or control over any United States national park, wildlife preserve, monument, or real property, nor has the United Nations nor any of its specialized or affiliated agencies implemented plans, regulations, programs, or agreements that exercise control or authority over the private real property of United States citizens located in the United States without the approval of the property owner.

(7) TERMINATION OF BORROWING AUTHORITY.—

(A) PROHIBITION ON AUTHORIZATION OF EXTERNAL BORROWING.—On or after the date of enactment of this Act, neither the United Nations nor any specialized agency of the United Nations has amended its financial regulations to permit external borrowing.

(B) PROHIBITION OF UNITED STATES PAYMENT OF INTEREST COSTS.—The United States has not, on or after October 1, 1984, paid its share of any interest costs made known to or identified by the United States Government for loans incurred, on or after October 1, 1984, by the United Nations or any specialized agency of the United Nations through external borrowing.

(b) TRANSMITTAL.—The Secretary of State may transmit a certification under subsection (a) at any time during fiscal year 1998 or thereafter if the requirements of the certification are satisfied.

CHAPTER 3—REFORM OF ASSESSMENTS AND UNITED NATIONS PEACEKEEPING OPERATIONS

SEC. 931. CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—A certification described in this section is a certification by the Secretary of State that the conditions in subsection (b) are satisfied. Such certification shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in section 921 are no longer satisfied.

(b) CONDITIONS.—The conditions under this subsection are the following:

(1) CONTESTED ARREARAGES.—The United Nations has established an account or other appropriate mechanism with respect to all United States arrearages incurred before the date of enactment of this Act with respect to which payments are not authorized by this Act, and the failure to pay amounts specified in the account does not affect the application of Article 19 of the Charter of the United Nations. The account established under this paragraph may be referred to as the ''contested arrearages account''.

(2) LIMITATION ON ASSESSED SHARE OF BUDGET FOR UNITED NATIONS PEACEKEEPING OPERATIONS.—The assessed share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.

(3) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.—The share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member.

CHAPTER 4—BUDGET AND PERSONNEL REFORM

SEC. 941. CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), a certification described in this section is a certification by the Secretary of State that the conditions in subsection (b) are satisfied.

(2) SPECIFIED CERTIFICATION.—A certification described in this section is also a certification that, with respect to the United Nations or a particular designated specialized agency, the conditions in subsection (b)(4) applicable to that organization are satisfied, regardless of whether the conditions in subsection (b)(4) applicable to any other organization are satisfied, if the other conditions in subsection (b) are satisfied.

(3) EFFECT OF SPECIFIED CERTIFICATION.—Funds made available under section 912(b)(3) upon a certification made under this section with respect to the United Nations or a particular designated specialized agency shall be limited to that portion of the funds available under that section that is allocated for the organization with respect to which the certification is made and for any other organization to which none of the conditions in subsection (b) apply.

(4) LIMITATION.—A certification described in this section shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in sections 921 and 931 are no longer satisfied.

(b) CONDITIONS.—The conditions under this subsection are the following:

(1) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.—The share of the total of all assessed contributions for the regular budget of the United Nations, or any designated specialized agency of the United Nations, does not exceed 20 percent for any single United Nations member.

(2) INSPECTORS GENERAL FOR CERTAIN ORGANIZATIONS.—

(A) ESTABLISHMENT OF OFFICES.—Each designated specialized agency has established an independent office of inspector general to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the organization.

(B) APPOINTMENT OF INSPECTORS GENERAL.—The Director General of each designated specialized agency has appointed an inspector general, with the approval of the member states, and that appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(C) ASSIGNED FUNCTIONS.—Each inspector general appointed under subparagraph (A) is authorized to—

(i) make investigations and reports relating to the administration of the programs and operations of the agency concerned;

(ii) have access to all records, documents, and other available materials relating to those programs and operations of the agency concerned; and

(iii) have direct and prompt access to any official of the agency concerned.

(D) COMPLAINTS.—Each designated specialized agency has procedures in place designed to protect the identity of, and to prevent reprisals against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the inspector general of the agency.

(E) COMPLIANCE WITH RECOMMENDATIONS.—Each designated specialized agency has in place procedures designed to ensure compliance with the recommendations of the inspector general of the agency.

(F) AVAILABILITY OF REPORTS.—Each designated specialized agency has in place procedures to ensure that all annual and other relevant reports submitted by the inspector general to the agency are made available to the member states without modification except to the extent necessary to protect the privacy rights of individuals.

(3) NEW BUDGET PROCEDURES FOR THE UNITED NATIONS.—The United Nations has established and is implementing budget procedures that—

(A) require the maintenance of a budget not in excess of the level agreed to by the

General Assembly at the beginning of each United Nations budgetary biennium, unless increases are agreed to by consensus; and

(B) require the system-wide identification of expenditures by functional categories such as personnel, travel, and equipment.

(4) SUNSET POLICY FOR CERTAIN UNITED NATIONS PROGRAMS.—

(A) EXISTING AUTHORITY.—The Secretary General and the Director General of each designated specialized agency have used their existing authorities to require program managers within the United Nations Secretariat and the Secretariats of the designated specialized agencies to conduct evaluations of United Nations programs approved by the General Assembly, and of programs of the designated specialized agencies, in accordance with the standardized methodology referred to in subparagraph (B).

(B) DEVELOPMENT OF EVALUATION CRITERIA.—

(i) UNITED NATIONS.—The Office of Internal Oversight Services has developed a standardized methodology for the evaluation of United Nations programs approved by the General Assembly, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(ii) DESIGNATED SPECIALIZED AGENCIES.—Patterned on the work of the Office of Internal Oversight Services of the United Nations, each designated specialized agency has developed a standardized methodology for the evaluation of the programs of the agency, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(C) PROCEDURES.—Consistent with the July 16, 1997, recommendations of the Secretary General regarding a sunset policy and results-based budgeting for United Nations programs, the United Nations and each designated specialized agency has established and is implementing procedures—

(i) requiring the Secretary General or the Director General of the agency, as the case may be, to report on the results of evaluations referred to in this paragraph, including the identification of programs that have met criteria for continuing relevance and effectiveness and proposals to terminate or modify programs that have not met such criteria; and

(ii) authorizing an appropriate body within the United Nations or the agency, as the case may be, to review each evaluation referred to in this paragraph and report to the General Assembly on means of improving the program concerned or on terminating the program.

(D) UNITED STATES POLICY.—It shall be the policy of the United States to seek adoption by the United Nations of a resolution requiring that each United Nations program approved by the General Assembly, and to seek adoption by each designated specialized agency of a resolution requiring that each program of the agency, be subject to an evaluation referred to in this paragraph and have a specific termination date so that the program will not be renewed unless the evaluation demonstrates the continuing relevance and effectiveness of the program.

(E) DEFINITION.—For purposes of this paragraph, the term ''United Nations program approved by the General Assembly'' means a program approved by the General Assembly of the United Nations which is administered or funded by the United Nations.

(5) UNITED NATIONS ADVISORY COMMITTEE ON ADMINISTRATIVE AND BUDGETARY QUESTIONS.—

(A) IN GENERAL.—The United States has a seat on the United Nations Advisory Committee on Administrative and Budgetary Questions or the five largest member contributors each have a seat on the Advisory Committee.

(B) DEFINITION.—As used in this paragraph, the term ''5 largest member contributors'' means the 5 United Nations member states that, during a United Nations budgetary biennium, have more total assessed contributions than any other United Nations member state to the aggregate of the United Nations regular budget and the budget (or budgets) for United Nations peacekeeping operations.

(6) ACCESS BY THE GENERAL ACCOUNTING OFFICE.—The United Nations has in effect procedures providing access by the United States General Accounting Office to United Nations financial data to assist the Office in performing nationally mandated reviews of United Nations operations.

(7) PERSONNEL.—

(A) APPOINTMENT AND SERVICE OF PERSONNEL.—The Secretary General—

(i) has established and is implementing procedures that ensure that staff employed by the United Nations is appointed on the basis of merit consistent with Article 101 of the United Nations Charter; and

(ii) is enforcing those contractual obligations requiring worldwide availability of all professional staff of the United Nations to serve and be relocated based on the needs of the United Nations.

(B) CODE OF CONDUCT.—The General Assembly has adopted, and the Secretary General has the authority to enforce and is effectively enforcing, a code of conduct binding on all United Nations personnel, including the requirement of financial disclosure statements binding on senior United Nations personnel and the establishment of rules against nepotism that are binding on all United Nations personnel.

(C) PERSONNEL EVALUATION SYSTEM.—The United Nations has adopted and is enforcing a personnel evaluation system.

(D) PERIODIC ASSESSMENTS.—The United Nations has established and is implementing a mechanism to conduct periodic assessments of the United Nations payroll to determine total staffing, and the results of such assessments are reported in an unabridged form to the General Assembly.

(E) REVIEW OF UNITED NATIONS ALLOWANCE SYSTEM.—The United States has completed a thorough review of the United Nations personnel allowance system. The review shall include a comparison of that system with the United States civil service system, and shall make recommendations to reduce entitlements to allowances and allowance funding levels from the levels in effect on January 1, 1998.

(8) REDUCTION IN BUDGET AUTHORITIES.—The designated specialized agencies have achieved zero nominal growth in their biennium budgets for 2000–01 from the 1998–99 biennium budget levels of the respective agencies.

(9) NEW BUDGET PROCEDURES AND FINANCIAL REGULATIONS.—Each designated specialized agency has established procedures to—

(A) require the maintenance of a budget that does not exceed the level agreed to by the member states of the organization at the beginning of each budgetary biennium, unless increases are agreed to by consensus;

(B) require the identification of expenditures by functional categories such as personnel, travel, and equipment; and

(C) require approval by the member states of the agency's supplemental budget requests to the Secretariat in advance of expenditures under those requests.

(10) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET FOR THE DESIGNATED SPECIALIZED AGENCIES.—The share of the total of all assessed contributions for any designated specialized agency does not exceed 22 percent for any single member of the agency.

Subtitle C—Miscellaneous Provisions

SEC. 951. STATUTORY CONSTRUCTION ON RELATION TO EXISTING LAWS.

Except as otherwise specifically provided, nothing in this title may be construed to make available funds in violation of any provision of law containing a specific prohibition or restriction on the use of the funds, including section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note), section 151 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note), and section 404 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note).

SEC. 952. PROHIBITION ON PAYMENTS RELATING TO UNIDO AND OTHER INTERNATIONAL ORGANIZATIONS FROM WHICH THE UNITED STATES HAS WITHDRAWN OR RESCINDED FUNDING.

None of the funds authorized to be appropriated by this title shall be used to pay any arrearage for—

(1) the United Nations Industrial Development Organization;

(2) any costs to merge that organization into the United Nations;

(3) the costs associated with any other organization of the United Nations from which the United States has withdrawn including the costs of the merger of such organization into the United Nations; or

(4) the World Tourism Organization, or any other international organization with respect to which Congress has rescinded funding.

TITLE X—RUSSIAN BUSINESS MANAGEMENT EDUCATION

SEC. 1001. PURPOSE.

The purpose of this title is to establish a training program in Russia for nationals of Russia to obtain skills in business administration, accounting, and marketing, with special emphasis on instruction in business ethics and in the basic terminology, techniques, and practices of those disciplines, to achieve international standards of quality, transparency, and competitiveness.

SEC. 1002. DEFINITIONS.

(a) BOARD.—The term ''Board'' means the United States-Russia Business Management Training Board established under section 1005(a).

(b) DISTANCE LEARNING.—The term ''distance learning'' means training through computers, interactive videos, teleconferencing, and videoconferencing between and among students and teachers.

(c) ELIGIBLE ENTERPRISE.—The term ''eligible enterprise'' means—

(1) a business concern operating in Russia that employs Russian nationals; and

(2) a private enterprise that is being formed or operated by former officers of the Russian armed forces in Russia.

(d) SECRETARY.—The term ''Secretary'' means the Secretary of State.

SEC. 1003. AUTHORIZATION FOR TRAINING PROGRAM AND INTERNSHIPS.

(a) TRAINING PROGRAM.—

(1) IN GENERAL.—The Secretary of State, acting through the Under Secretary of State for Public Diplomacy, and taking into account the general policies recommended by the United States-Russia Business Management Training Board established under section 1005(a), is authorized to establish a program of technical assistance (in this title referred to as the ''program'') to provide the training described in section 1001 to eligible enterprises.

(2) IMPLEMENTATION.—Training shall be carried out by United States nationals having expertise in business administration, accounting, and marketing or by Russian nationals who have been trained under the program or by those who meet criteria established by the Board. Such training may be carried out—

(A) in the offices of eligible enterprises, at business schools or institutes, or at other locations in Russia, including facilities of the armed forces of Russia, educational institutions, or in the offices of trade or industry associations, with special consideration given to locations where similar training opportunities are limited or nonexistent; or

(B) by ''distance learning'' programs originating in the United States or in European branches of United States institutions.

(b) INTERNSHIPS WITH UNITED STATES DOMESTIC BUSINESS CONCERNS.—The Secretary, acting through the Under Secretary of State for Public Diplomacy, is authorized to pay the travel expenses and appropriate in-country business English language training, if needed, of certain Russian nationals who have completed training under the program to undertake short-term internships with business concerns in the United States upon the recommendation of the Board.

SEC. 1004. APPLICATIONS FOR TECHNICAL ASSISTANCE.

(a) PROCEDURES.—

(1) IN GENERAL.—Each eligible enterprise that desires to receive training for its employees and managers under this title shall submit an application to the clearinghouse established by subsection (d), at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require.

(2) JOINT APPLICATIONS.—A consortium of eligible enterprises may file a joint application under the provisions of paragraph (1).

(b) CONTENTS.—The Secretary shall approve an application under subsection (a) only if the application—

(1) is for an individual or individuals employed in an eligible enterprise or enterprises applying under the program;

(2) describes the level of training for which assistance under this title is sought;

(3) provides evidence that the eligible enterprise meets the general policies adopted by the Secretary for the administration of this title;

(4) provides assurances that the eligible enterprise will pay a share of the costs of the training, which share may include in-kind contributions; and

(5) provides such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this title.

(c) COMPLIANCE WITH BOARD POLICIES.—The Secretary shall approve applications for technical assistance under the program after taking into account the recommendations of the Board.

(d) CLEARINGHOUSE.—There is established a clearinghouse in Russia to manage and execute the program. The clearinghouse shall screen applications, provide information regarding training and teachers, monitor performance of the program, and coordinate appropriate post-program follow-on activities.

SEC. 1005. UNITED STATES-RUSSIAN BUSINESS MANAGEMENT TRAINING BOARD.

(a) ESTABLISHMENT.—There is established within the Department of State a United States-Russian Business Management Training Board.

(b) COMPOSITION.—The Board established pursuant to subsection (a) shall be composed of 12 members as follows:

(1) The Under Secretary of State for Public Diplomacy.

(2) The Administrator of the Agency for International Development.

(3) The Secretary of Commerce.

(4) The Secretary of Education.

(5) Six individuals from the private sector having expertise in business administration, accounting, and marketing, who shall be appointed by the Secretary of State, as follows:

(A) Two individuals employed by graduate schools of management offering accredited degrees.

(B) Two individuals employed by eligible enterprises.

(C) Two individuals from nongovernmental organizations involved in promoting free market economy practices in Russia.

(6) Two nationals of Russia having experience in business administration, accounting, or marketing, who shall be appointed by the Secretary of State upon the recommendation of the Government of Russia, and who shall serve as nonvoting members.

(c) GENERAL POLICIES.—The Board shall make recommendations to the Secretary with respect to general policies for the administration of this title, including—

(1) guidelines for the administration of the program under this title;

(2) criteria for determining the qualifications of applicants under the program;

(3) the appointment of panels of business leaders in the United States and Russia for the purpose of nominating trainees; and

(4) such other matters with respect to which the Secretary may request recommendations.

(d) CHAIRPERSON.—The Chairperson of the Board shall be designated by the President from among the voting members of the Board. Except as provided in subsection (e)(2), a majority of the voting members of the Board shall constitute a quorum.

(e) MEETINGS.—The Board shall meet at the call of the Chairperson, except that—

(1) the Board shall meet not less than 4 times each year; and

(2) the Board shall meet whenever one-third of the voting members request a meeting in writing, in which event 7 of the voting members shall constitute a quorum.

(f) COMPENSATION.—Members of the Board who are not in the regular full-time employ of the United States shall receive, while engaged in the business of the Board, compensation for service at a rate to be fixed by the President, except that such rate shall not exceed the rate specified at the time of such service for level V of the Executive Schedule under section 5316 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

SEC. 1006. RESTRICTIONS NOT APPLICABLE.

Prohibitions on the use of foreign assistance funds for assistance for the Russian Federation shall not apply with respect to the funds made available to carry out this title.

SEC. 1007. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated $10,000,000 for each of fiscal years 2000 and 2001 to carry out this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

SEC. 1008. EFFECTIVE DATE.

This title shall take effect on October 1, 1999.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JAN. 1, TO MAR. 31, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mitch McConnell:									
Cambodia	Dollar		625.00						625.00
Indonesia	Dollar		625.00						625.00
Australia	Dollar		625.00						625.00
New Zealand	Dollar		625.00						625.00
Robin Cleveland:									
Cambodia	Dollar		625.00						625.00
Indonesia	Dollar		625.00						625.00
Australia	Dollar		625.00						625.00
New Zealand	Dollar		625.00						625.00
Senator Patrick Leahy: Cuba	Dollar		686.00						686.00
Tim Rieser: Cuba	Dollar		686.00						686.00
Steve Cortese:									
So. Africa	Dollar		758.00						758.00
So. Africa	Dollar		830.00						830.00
Uganda	Dollar		75.00						75.00
Kenya	Dollar		1,170.00						1,170.00
United States	Dollar			6,932.06					6,932.06

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JAN. 1, TO MAR. 31, 1999—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
M. Sidney Ashworth:									
So. Africa	Dollar		758.00						758.00
So. Africa	Dollar		830.00						830.00
Uganda	Dollar		75.00						75.00
Kenya	Dollar		1,170.00						1,170.00
United States	Dollar			6,932,06					6,932,06
Jennifer Chartrand:									
So. Africa	Dollar		758.00						758.00
So. Africa	Dollar		830.00						830.00
Uganda	Dollar		75.00						75.00
Kenya	Dollar		1,170.00						1,170.00
United States	Dollar				6,932.06				6,932.06
Total			14,871.00		20,796.18				35,667.18

TED STEVENS,
Chairman, Committee on Appropriations, Mar. 31, 1999.

AMENDMENT TO CONSOLIDATED REPORT FILED FEB. 22, 1999 FOR LAST QUARTER 1998.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, FOR HOUSING AND URBAN AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jack Reed:									
Russia	Dollar		503.00						503.00
Lithuania	Dollar		500.00						500.00
Neil Campbell:									
Russia	Dollar		556.00						556.00
Lithuania	Dollar		500.00						500.00
Total			2,059.00						2,059.00

ALFONSE D'AMATO,
Chairman, Committee on Banking, Housing and Urban Affairs, April 7, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET FOR TRAVEL FROM JAN. 9 TO JAN. 17, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sue A. Nelson: Sweden	Dollar		2,000.00		4,285.20				6,285.20
Total			2,000.00		4,285.20				6,285.20

PETE V. DOMENICI,
Chairman, Committee on the Budget, Mar. 26, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Gordon Smith:									
China	Dollar		620.25						620.25
Hong Kong	Dollar		347.00						347.00
Senator Craig Thomas:									
China	Dollar		620.25						620.25
Hong Kong	Dollar		347.00						347.00
Taiwan	Dollar		409.50						409.50
Stephen Biegun:									
Germany	Dollar		500.00						500.00
United States	Dollar				3,900.01				3,900.01
Robert Epplin:									
China	Dollar		620.25						620.25
Honk Kong	Dollar		347.00						347.00
Taiwan	Dollar		409.50						409.50
Garrett Grigsby:									
Netherlands	Dollar		589.00						589.00
United States	Dollar				4,829.13				4,829.13
Michael Haltzel:									
Germany	Dollar		500.00						500.00
United States	Dollar				3,905.15				3,905.15
Richard Houghton:									
China	Dollar		620.25						620.25
Hong Kong	Dollar		347.00						347.00
Taiwan	Dollar		409.50						409.50
James Jones:									
Switzerland	Dollar		1,150.00						1,150.00
United States	Dollar				907.62				907.62
Kirsten Madison:									
Honduras	Dollar		147.00						147.00
Nicaragua	Dollar		6.00						6.00
Michael Miller:									
Kenya	Dollar		1,960.00						1,960.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1999—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Uganda	Dollar		375.00						375.00
United States	Dollar				7,082.17				7,082.17
Kurt Pfotenhauer:									
China	Dollar		620.25						620.25
Hong Kong	Dollar		347.00						347.00
Taiwan	Dollar		409.50						409.50
Danielle Pletka:									
Turkey	Dollar		941.00						941.00
Iraq	Dollar		250.00						250.00
United States	Dollar				4,553.40				4,553.40
Linda Rotblatt:									
Nigeria	Dollar		1,630.00						1,630.00
United States	Dollar				4,536.05				4,536.05
Marc Thiessen: United Kingdom	Dollar		945.00						945.00
Natasha Watson:									
Vietnam	Dollar		820.00						820.00
Thailand	Dollar		240.00						240.00
United States	Dollar				2,792.40				2,792.40
Total			16,527,25		32,505.93				49,033.18

JESSE HELMS,
Chairman, Committee on Foreign Relations, May 5, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby			2,007.32		4,545.23				6,552.55
Taylor W. Lawrence			3,894.25		5,102.90				8,997.15
James Stinebower			2,582.00		6,018.91				8,600.91
Peter Cleveland			1,419.00		4,833.39				6,252.39
Total			9,902.57		20,500.43				30,403.00

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Apr. 22, 1999.

ADDENDUM TO 4TH QUARTER OF 1998.—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank Lautenberg			2,351.00		3,441.00				5,792.00
Lorenzo Goco			2,146.00		4,683.51				6,829.51
Frederic Baron			2,072.00		4,683.51				6,755.51
Total			6,569.00		12,808.02				19,377.02

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Apr. 22, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER FROM JAN. 1 TO MAR. 31, 1999

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Luke Albee: Cuba	Dollar		875.00						875.00
Total			875.00						875.00

TOM DASCHLE,
Democratic Leader, Apr. 27, 1999.

ORDERS FOR MONDAY, JUNE 28, 1999

Mr. LOTT. Mr. President, I ask unanimous consent when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, June 28. I further ask that on Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business with Senators speaking for up to 10 minutes each until the hour of 1 p.m.

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

FILING OF FIRST-DEGREE AMENDMENTS

Mr. LOTT. Notwithstanding the adjournment of the Senate, I ask consent that Senators be allowed to file first-degree amendments until 1 p.m. tomorrow.

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

PROGRAM

Mr. LOTT. For the information of all Senators, on Monday the Senate will convene at 12 and we will have a period of morning business until 1. At 1 o'clock we will resume consideration of the agriculture appropriations bill. Under a previous order, the Senate will begin a series of up to four stacked votes at 5:30 on Monday. Those votes will be on invoking cloture on the agriculture appropriations bill, followed by a cloture motion to proceed to the transportation appropriations bill, a cloture motion to proceed to the Commerce, Justice, and State Department appropriations bill, and cloture on the motion to proceed to foreign operations appropriations. Therefore, Senators can expect the first vote on Monday to begin at 5:30.

ORDER FOR ADJOURNMENT

Mr. LOTT. 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 at the conclusion of remarks by the Senator from Nebraska, Mr. KERREY.

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

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

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

INDIA AND PAKISTAN

Mr. KERREY. Mr. President, I come to the floor to call my colleagues' attention to the current conflict between India and Pakistan over the line of control of Kashmir. I have a great deal of respect for the problem of watching situations that are not only a long way away from us but are so remote that it is hard to get a camera crew there. I fear that is what is going on. A lot of cameras and journalists are in Kosovo watching the return of refugees and watching the United States troops come back into that region, as well they should.

There is a real danger in not watching and paying attention to what is going on between India and Pakistan, and there is a danger that our lack of attention to this particular problem could produce a confrontation that not only would be deadly but would draw in the rest of the world as well.

One of my principal concerns about the Kosovo operation, though I supported the bombing and I am pleased it is over and pleased that we have had some measure of success, was that it drew our attention away from non-NATO missions. The United States of America, unlike many of our NATO allies—indeed, unlike most of our NATO allies—has very important missions that we are performing throughout the world.

India and Pakistan is one of those missions. We were all surprised last year—and nobody should be surprised this time around—after India and Pakistan detonated nuclear weapons—surprised our State Department, surprised our CIA. We had a hearing trying to figure out why we were not able to predict this, even though the Prime Minister who won the race for the Parliament had, as part of his party platform, a promise to detonate and become a nuclear power. I do not think we should have been surprised. We were surprised.

We should not be surprised in this situation if this deteriorates into an additional war. India and Pakistan have had not only three wars since independence in the last 50 years, but there have been many serious and deadly skirmishes that have taken place over the line of control in Kashmir.

This could not only deteriorate again, and there is a bloody battle going on as we speak, but in addition to that, unlike the United States and the Soviet Union that over the last 50 years developed protocols to deal with nuclear weapons—and we have fairly substantial impressive margins for error—there have been no such discussions between India and Pakistan. Both of them are nuclear powers. Both of them could detonate nuclear weapons and use nuclear weapons in a confrontation of this kind.

I have come before the Senate only to say to my colleagues I hope we pay an increasing amount of attention to what is clearly an issue that is vital to the security of the United States of America. This is not one where there is any doubt. It is a good example of the kind of non-NATO mission to which the United States of America, our diplomats, and our warfighters have to pay attention. This is a region of the world that is extremely unstable at the minute, and that instability could produce a confrontation with deadly consequences to us and deadly consequences to our interests in the region as well.

Just because it does not appear on this evening's news or in the newspapers, or it does not appear we are getting lengthy stories and coverage of the problems going on between India and Pakistan in Kashmir right now, no one should be surprised if, through our own failure to intervene with both significant diplomacy and other efforts, this confrontation gets larger and, as a consequence, we find ourselves suffering an awful lot more than the suffering we are currently seeing in Kosovo.

Mr. President, I appreciate the opportunity to speak. I yield the floor.

ADJOURNMENT UNTIL MONDAY, JUNE 28, 1999

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 6:27 p.m., adjourned until Monday, June 28, 1999, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 24, 1999:

DEPARTMENT OF AGRICULTURE

PAUL W. FIDDICK, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE WARDELL CLINTON TOWNSEND, JR., RESIGNED.

DEPARTMENT OF STATE

EVELYN SIMONOWITZ LIEBERMAN, OF NEW YORK, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY. (NEW POSITION)