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# Senate

## TAXPAYER REFUND AND RELIEF ACT OF 1999—CONFERENCE REPORT

*(Continued)*

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Arizona.

Mr. KYL. Mr. President, I begin by commending the chairman of the Finance Committee, Senator ROTH, and our leadership, Senators LOTT and NICKLES, for their tremendous work on this bill. Members have heard Senator NICKLES discuss the details of the bill, the many things that have been included in this bill. Through his leadership, a lot of the things that Members of the Republican Party and people I represent who have talked to me about tax policy wanted in this bill have gotten included in the bill. I think they did a tremendous job in ensuring that the tax relief for taxpayers became a part of this tax package.

I won't go over the details of the bill as Senator NICKLES has just done, but I want to note that this is, as he said, the largest middle-class tax cut since Ronald Reagan was President. It is based on the same kind of progrowth, broad-based policies that will let all taxpayers keep more of their hard-earned money.

Mr. NICKLES. Will the Senator yield?

Mr. KYL. I am happy to yield to the Senator.

Mr. NICKLES. I want to take a minute to congratulate and thank my friend and colleague from Arizona for his leadership in the entire tax reduction effort, but particularly in estate taxes. The Senator from Arizona has been principal sponsor of a bill to reduce and eliminate the estate taxes. We have incorporated most all of that provision in this bill.

I want to compliment him because I am confident eventually—maybe this bill will be vetoed; I hope not; I hope the President reconsiders—we will pass a bill to eliminate the death tax. The Senator from Arizona deserves great accolades and credit for being a principal player in making that happen.

Mr. KYL. I thank the distinguished assistant majority leader. I agree that by including the repeal of the estate tax, sometimes called the death tax, in this legislation, we have laid down a marker and pretty well ensured that sooner or later it is going to be repealed.

Obviously, for the time being, we may have to pay it down a little bit and find it is repealed in maybe the ninth or tenth year. Hopefully, by virtue of the fact we have agreed that it has to go eventually, we will repeal it, and hopefully it will be sooner rather than later because some of my friends have kidded, saying: You know, it is fine you get this repealed 9 years from now, but that means I have to hang on for another 9 years. I am not sure that is possible. Besides that, I have to do the expensive estate planning in the meantime.

We prefer to get that eliminated sooner rather than later. I think it is a testament to the leadership of Senator NICKLES, majority leader Senator LOTT, and Senator ROTH, as well as our friends in the House who were in agreement that the death tax had to go. That important provision was included in this election.

Rather than describe the specifics of this program, let me note, when I turned on the television this morning I heard a report on CNN. Reporters had gone to Orange County in California. They found the average citizen on the street there really didn't like this tax relief that much.

They said: Why do we need to do it? After all, shouldn't we be saving the Social Security surplus for paying down the debt or for Social Security?

I say as plainly and clearly as I can: That is exactly what we do. We are not spending the Social Security surplus. Every dime of the Social Security surplus is set. It is not the subject of this tax bill.

There are two kinds of surplus. First, FICA taxes fund the Social Security payments to seniors. We collect more in FICA taxes than current beneficiaries require under Social Security. So there is a surplus. We don't use that for the tax cut.

Now, there are all of the other tax payment provisions of the code. We have to pay income tax, the estate tax, the capital gains tax, these other taxes. They, too, are producing more revenue than we need. We are not spending as much as we are collecting. That is the surplus we are talking about for tax relief.

As Senator NICKLES said a moment ago, out of the entire surplus, only 25 cents of it is going for tax relief. When some of our friends on the other side of the aisle or the President say we can't afford tax relief; we should be saving the Social Security surplus, they are fooling the American people. The truth is, the Social Security surplus is not being used for this tax relief—not a penny of it.

As a matter of fact, those people who say we should pay down the national debt should understand that both under the President's plan and under our plan, any amount of the Social Security surplus that isn't necessary for Social Security is used to do what? Pay down the national debt. That is what the Social Security surplus is being used for.

Let's not be confused. There are good reasons for a tax cut. The money for the tax cut is not coming out of the money for Social Security or for paying off our national debt. That is the fundamental point I wanted to reiterate.

Different provisions of the bill stress the point that Senator NICKLES made, which is that finally we have achieved in law—we will by the time we vote for this—that the death tax is going to be repealed. I think that sends a very important message as we continue to craft tax legislation. Should the President veto this bill, that will permit us

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



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to include that principle in whatever eventually is sent to the President and, hopefully, signed into law.

The Taxpayer Refund and Relief Act, which is really the largest middle-class tax cut since Ronald Reagan was President, is based upon the kind of broad-based, pro-growth policies that will help all taxpayers and keep our nation's economic expansion on track.

Mr. President, this measure really represents a departure from the kind of targeted tax cuts that we have seen in the past. Taxpayers will not have to jump through hoops, or behave exactly as Washington wants, to see relief. If you pay taxes, you get to keep more of what you earn. It is as simple as that. The marginal income-tax rate reductions in this bill refund to all taxpayers a share of the tax overpayment that has created our budget surpluses. Those in the lowest income-tax bracket will see a seven percent reduction in their taxes. Those in the highest tax bracket will see a reduction of about half that size. I would have preferred an across-the-board reduction that helped everyone more than this. But recognizing the constraints imposed on the Finance Committee by the budget resolution, I think this is a very good product.

In addition to marginal rate reductions, the bill would eliminate two of the most egregious taxes imposed on the American people: the marriage-tax penalty and the death tax. There is simply no reason that two of life's milestones should trigger a tax, let alone the steep taxes that are imposed on people when they get married and when they die. Eliminating them is the right thing to do.

To eliminate the marriage penalty for most taxpayers, the standard deduction for joint returns would be set at two times the single standard deduction, and the new 14 percent income-tax bracket would be adjusted to two times the single bracket, phased in over the life of the bill. This will solve the problem for most taxpayers, but we need to make clear that, although we have devoted fully 50 percent of the relief in this bill to broad-based and marriage-penalty relief, we will not have eliminated the marriage penalty entirely. We will still need to come back and address the problem for taxpayers who choose to itemize.

The bill also phases out the death tax over the next several years, so that by 2009 it is completely eliminated. I would ask Senators to carefully review the details of what is proposed here, because I believe they will find that the bill offers a way for those on both sides of the aisle to bridge our differences with respect to how transfers at death are taxed.

The beauty of the proposal is that it takes death out of the equation. Death would no longer be a taxable event. It would neither confer a benefit—the step-up in basis allowed under current law—nor a penalty—the punitive, confiscatory death tax.

The provisions are based upon the bipartisan, Kyl-Kerrey Estate Tax Elimination Act, S. 1128, which would treat inherited assets like any other asset for tax purposes. A tax on the capital gain would be paid, the same as if the decedent had sold the property during his or her lifetime, but the tax would be paid only if and when the property is sold.

If the beneficiaries of an estate hold onto an asset—for example, if they continue to run the family business or farm—there would be no tax at all. No death tax or capital-gains tax. It is only if they sell and realize income from the property that a tax would be due, and then it would be at the applicable capital-gains rate.

This simple and straightforward concept attracted a bipartisan group of cosponsors, including Democratic Senators KERREY, BREAUX, ROBB, LINCOLN, and WYDEN, and about a dozen Senators from the Republican side. If the President makes good on his threat to veto this tax-relief bill, our bipartisan initiative provides a blueprint for how we should deal with the death tax in future tax legislation.

Mr. President, another important feature of this tax bill is its capital-gains tax-rate reduction. It will reduce capital-gains tax rates another two percent, so that the top rate is only about two-thirds of where it was just a few years ago.

Why is another capital-gains reduction important? Let me quote President John F. Kennedy, who answered that very question: ''The present tax treatment of capital gains and losses is both inequitable and a barrier to economic growth.'' He proposed excluding 70 percent of capital gains from tax, which, if you applied the same concept today, would result in a top rate of about 11.88 percent. That is lower than the top rate of 18 percent proposed in the bill we have before us.

President Kennedy explained that ''[t]he tax on capital gains directly affects investment decisions, the mobility and flow of risk capital from static to more dynamic situations, the ease or difficulty experienced by new ventures in obtaining capital, and thereby the strength and potential for growth of the economy.''

In other words, if we are concerned about whether new jobs are being created, whether new technology is developed, whether workers have the tools they need to do a more efficient job, we should support measures that reduce the cost of capital to facilitate the achievement of all of these things. Remember, for every employee, there was an employer who took risks, made investments, and created jobs. But that employer needed capital to start.

President Kennedy recognized that. He recognized that our country is stronger and more prosperous when our people are united in support of a common goal—and that we are weaker and more vulnerable when punitive policies divide Americans, group against group, whether along racial lines or economic lines.

While some politicians may employ divisive class warfare to their political advantage, President Kennedy had the courage to put good policy ahead of demagogic politics. I am with him, and I support the capital-gains reduction in this bill.

There are several other provisions that I want to mention briefly, because they, too, will help keep the economic expansion going: the increase in the IRA contribution limit, the alternative minimum tax relief, and the increased expensing allowance. These are things that will encourage the capital formation needed to help keep the United States competitive in world markets, producing jobs and better pay for our citizens.

The bill addresses the critical issue of health care as well, providing an above-the-line deduction for prescription-drug insurance, and a 100 percent deduction, phased in over time, for health-insurance costs for people not covered by employer plans.

We encourage savings for education by increasing the amount that individuals can contribute to education savings accounts. Funds in these accounts could be used for elementary and secondary education expenses, in addition to higher education. The exclusion for employer-provided educational assistance would be extended, and the 60-month limit for deducting interest on student loans would be repealed.

Mr. President, a few final points before closing. Providing the tax relief in this bill will not require us to use any of the Social Security surplus in any year. In fact, all of the Social Security surplus will be reserved for Social Security. In all, about 75 percent of anticipated budget surpluses over the next decade would still be set aside for Social Security, Medicare, and other domestic priorities, including debt reduction.

It is only the remaining 25 percent of the available surplus that would be refunded to American taxpayers. In other words, we are proposing to refund just 25 cents of every surplus dollar back to the people who sent it to Washington. It is a sensible and a modest initiative.

Remember, the $792 billion in tax relief would be provided over a 10-year period. If you include enough years in the calculation, of course, the amount sounds large, but we are really only talking about an average of $80 billion a year.

To put that into perspective, the federal government will collect $1.8 trillion this year alone. It will collect $2.7 trillion by the end of the 10-year period, in 2009. The amount of tax relief we are considering is very modest—not risky, not irresponsible at all, as the President would have us believe.

Even accounting for the proposed tax cut, the debt would be reduced substantially. The Budget Committee chairman gave us the numbers last week. Publicly held debt would decline from

$3.8 trillion to $900 billion by 2009. Interest costs are forecast to decline from more than $200 billion annually to about $71 billion a year. In fact we reduce debt and debt-service costs more than the President would in his budget, because President Clinton would spend nearly $1 trillion on new initiatives. According to the Congressional Budget Office, part of the President's new spending would even be funded out of the Social Security surplus.

To the extent that there is any surplus in the non-Social Security part of the budget, it is because we will have already taken care of the core obligations of government—things like education, health care, the environment, and defense. It is true that we may not launch some new initiatives, or fund lower priority programs, but I believe it is appropriate to refund part of the tax overpayment to hard-working taxpayers before funding new endeavors.

Mr. President, if a corner business did what the federal government is doing, it would be accused of gouging. We are charging the taxpayers too much, taking more than the government needs to fund its obligations. We ought to return this overpayment to the people who earned it, instead of thinking up new ways to spend it in Washington.

Mr. President, again I commend the leaders who were able to put this package together. I intend to vote for it and encourage my colleagues to do so.

I yield whatever time is remaining to the Senator from Delaware.

Mr. ROTH. I yield 7 minutes to the distinguished Senator from Kentucky.

Mr. BUNNING. Mr. President, I rise in strong support on conference report on the Taxpayers Refund and Relief Act of 1999 and urge my colleaguess to support it. I congratulate Senator ROTH and his staff on getting such a great bill to the floor of the Senate. I urge the President of the United States to reconsider his threat to veto it.

It is a good bill. It is responsible in its timing. It is responsible in its provisions. And it is definitely responsible to let the American taxpayers keep a little more of their own money.

On the basis of fact, it is difficult to dispute the fairness or the timing for a tax cut in general.

Federal tax rates are at an all-time, peace-time high, consuming more than 20.6 percent of the Nation's economic output. That is a higher tax rate than any year except 1944 at the height of World War II when Federal taxes consumed 20.9 percent of the gross domestic product.

At the same time, we are anticipating record budget surpluses. The economists tell us that over the next 10 years, the Federal Government will take in nearly $3 trillion more than it needs. Even if we set aside $1.9 trillion of that surplus to safeguard Social Security and pay down the public debt, the Federal Government will still have $1 trillion more than it needs over the next 10 years.

It is hard to imagine a more opportune or reasonable time to cut taxes. Tax rates are at record highs—budget surpluses are at record highs. What more do you need?

In a similar vein, it is difficult to dispute any of the major provisions in this bill on the basis of fairness. It does a lot of good things.

It reduces each of the personal income tax rates, which currently range from 15 percent to 39.6 percent by 1 percentage point so that low- and moderate-income taxpayers receive a larger real cut than those in higher income brackets.

It reduces the capital gains tax moderately and indexes capital gains to account for inflation. It encourages savings by increasing IRA contribution limits from $2,000 to $5,000.

It would eliminate the odious death tax which destroys family businesses and farms. Point by point, it is difficult to portray any of these provisions as radical or unfair.

It is also difficult to question the fairness of the bill's provisions which try to eliminate the marriage penalty that exists under current tax law and which forces 20 million married couples to pay about $1,400 a year more in taxes than unmarried couples.

In an effort to eliminate this inequity, the Taxpayer Refund Act increases the standard deduction and raises the upper limit of the 14-percent bracket for married couples.

The individual provisions in the tax cut bill are reasonable and fair.

Still, the President insists that a $792 billion tax cut is irresponsible and reckless. Even though our Republican plan sets aside $1.9 trillion to secure Social Security and pay down the public debt—even though it reserves another $277 billion to pay for Medicare reform or other essential services—even though the tax cuts are phased in slowly over 10 years, the President claims it is reckless and irresponsible.

It is easy to understand why. He wants to spend more.

He says cutting taxes $792 billion is reckless but he didn't have any qualms about proposing 81 new spending programs that would cost $1.033 trillion in his budget proposal this year.

He clearly believes that the money belongs to the Federal Government—not the taxpayers. And he clearly plans to find ways to spend that surplus if given the chance. That is the big question that faces the Nation right now. Whose money is it and is it more responsible to give some of it back to the taxpayers than it is to spend it?

I have heard a lot about Federal Reserve Board Chairman, Allen Greenspan's recent testimony before a Senate Committee on which I serve and, admittedly, he was not overly enthusiastic about cutting taxes right now.

He would prefer that we use all the budget surplus to pay down the debt. But, he also made it clear that the worst thing we could do is to spend the surplus on new programs. He made it clear that cutting taxes would be preferable to expanding Federal spending. Our tax bill already pays down the debt more than the President's plan and if we don't cut taxes now, make no mistake about it, the President will find plenty of ways to spend the rest of that surplus.

This bill simply says that when tax rates are at record highs and the Government has more money than it needs to protect Social Security and Medicare and to pay down the debt, the responsible thing to do is to give some of that money back to the people who pay the taxes.

There is nothing reckless about the Republican tax cut. It protects Social Security and Medicare. It reduces the debt more than the President's plan.

It reserves several hundred billion to pay for essential services or to pay the debt down even more. The timing is right. The provisions are fair. It simply allows the Nation's taxpayers to keep a little more of their own money.

I urge my colleagues to vote for it.

Mr. ROTH. I now yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Delaware and commend him for his outstanding work in respect to this piece of important legislation. The Republican plan is a good plan for several reasons, the first of which is that the Republican plan protects every single cent of the Social Security surplus. None of it is to be consumed in the tax cut or in tax relief. Every penny of money from the Social Security trust fund is to be protected—$1.9 trillion over 10 years.

When the President presented his budget earlier this year he said we should protect 62 percent of the Social Security trust fund. There is an important distinction. We would protect every cent. The President proposed spending $158 billion of the Social Security benefits over the next 5 years. We said zero. I am happy to say he went back to the drawing board. He still comes back with a plan that spends $1 trillion more in 10 years, including about $30 billion of the Social Security surplus, but it is closer to the Republican plan which protects Social Security. It is very important to understand the Republican plan does not invade Social Security in order to have a tax cut.

Since Congress took Social Security off budget in 1969, the Democrats have never protected every dime of Social Security surpluses, and frankly neither have we until this year.

In addition to protecting Social Security, the Republican plan pays down the national debt. What is important is that over the next 10 years we will pay off almost half of the national debt. That is responsible. Most homeowners do not pay off half their mortgage in 10 years. On a 30-year mortgage, it takes about 15 years to get halfway through the process.

Mr. President, $1.9 trillion of the $3.6 trillion in publicly held national debt will be paid off. We will reduce the national debt from 41 percent of the gross domestic product to only 14 percent of the gross domestic product.

On the other side, in contrast, they want to spend more money and leave Americans with a higher national debt. President Clinton's plan provides $223 billion less in debt reduction than does ours.

The Republican plan also saves more money for Medicare. Over the next 10 years, the Republican plan sets aside $90 billion for fixing Medicare, in contrast to President Clinton's new Medicare entitlement that provides only $46 billion for additional funding over that period.

After attending to all these priorities, after setting aside Social Security, after attending to and making sure we pay down half the debt, running it down from 41 percent of the gross domestic product to 14 percent of the gross domestic product, the Republican plan cuts taxes for every taxpayer; it cuts taxes for married couples, for savings in IRAs, for college education, for health care, cutting the bottom rate and every other rate by 1 percent.

In addition, the Republican plan reduces the marriage penalty for couples, thanks to the outstanding work of Senator HUTCHISON of Texas. I was pleased to have joined her, along with Senator BROWNBACK of Kansas, in accelerating that kind of relief in our effort. The Republican plan will make the standard deduction for married couples double that for singles. We will also increase the rate bracket for married couples, making it possible for them to become married couples without paying a penalty. In contrast, the President's plan and the Democratic plan would spend more money on Government, leaving less money for our families.

If your faith is in government and in bureaucracy and your faith is not in families and in our communities, then you want to sweep resources to Washington and spend it here. If you believe the greatness of America is in the families and the hearts of the American people, then leaving some of their resources, which they have earned, with them is wise policy.

President Clinton's plan calls for $1 trillion more in spending over the next 10 years. The American people did not balance the budget just so they could be the victims of more spending. Out of approximately $3 trillion in total surpluses over the next 10 years, our plan devotes only $792 billion, less than a quarter of the entire total surplus, to tax cuts. The Republican plan protects Social Security, cuts the publicly held debt in half, and provides needed relief to every taxpayer while protecting the opportunity to reform and address the needs of Medicare.

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

Mr. ROTH. Mr. President, I yield 5 minutes to Senator HAGEL.

Mr. HAGEL. I thank the Chair.

Mr. President, first I add my thanks and appreciation to the chairman of the Senate Finance Committee, Senator ROTH, for the leadership he has provided in getting a very fair, responsible, realistic, reasonable tax cut this far. It has been a rather remarkable achievement. It is the right thing for America.

I rise to state my strong support for this bill. We have heard a lot of talk about standards of fairness, is this right, does it help everyone. That is a good question, an appropriate question.

I ask these questions: What can be more fair than an across-the-board reduction in marginal tax rates? Everyone who pays Federal income tax benefits.

Let's put some perspective on this. This tax cut bill is focused on those who pay taxes. It might be a revelation for some, but actually it is true and we acknowledge that right from the beginning. This is about tax relief for those who pay Federal income taxes.

Another relevant question is: What is more fair than ensuring people do not pay more in taxes just because they are married? Was it fair that we penalized married couples? No. This tax bill addresses that issue, and we do something about it. In fact, we make it fair.

Are only rich people married? I don't think so. I think a lot of middle-class people are married. I think a lot of people at the bottom of the economic structure who pay Federal income taxes are married. Surely, they will benefit from this tax bill.

Another question: What is more fair than making sure farmers—we have been talking about farmers all week—and small businesspeople, the engine of economic growth in America, don't have to sell their farms or their businesses in order to pass them on to their children so they, in fact, can keep farming?

That is fair. Are there people in the middle-class economic structure of America who so fit? I think so.

Another question: What is more fair than making sure self-employed individuals have the same opportunities as big corporations when it comes to deducting the cost of health insurance? I think that is rather fair.

What about this: What is more fundamentally fair than giving back to the American people their money when they are paying too much in taxes, say, over $3 trillion more in taxes projected over the next 10 years?

This bill does that. It does it fairly; it does it reasonably; it does it realistically; and it does it responsibly.

We have heard in this Chamber over the last few minutes some of my colleagues talk about Social Security. My goodness, all responsible legislators, all responsible Americans would not dare take Social Security surpluses and use those for tax cuts. We are not talking about that. If the American public gets a sense that there is just a hint of demagoguery in this, they might be right and they actually might be on to something because the fact is, this plan does not do that.

All Social Security surpluses are laid aside. We do not cut Medicare. We do not cut into spending. We provide for the adequate national defense requirements and, in fact, increase national defense spending over the next 10 years, veterans' benefits, and education benefits. That is where every 75 cents of this $1 overpayment goes. The other 25 cents goes back to the taxpayer.

This is not theory or some abstract debate. You either favor tax cuts or you do not. We can all dance around this and we can confuse each other and say: It's not fair and it's not reasonable.

In the end, this place is about decisionmaking, hard choices. It is about hard choices, and you either agree that we should cut taxes or you do not. That is what we are going to vote on today. There are two clear choices: Give the American people a tax cut or keep the money in Washington where it surely will be spent.

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

Mr. HAGEL. Mr. President, I appreciate the opportunity to register my strong support and yield the floor.

Mr. ROTH. I yield 5 minutes to the Senator from Pennsylvania.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair and thank the chairman for yielding me time.

I, too, rise, as the Senator from Nebraska just did, in strong support of returning to the American public what they have overpaid. And that, to me, is good business practice. If a business gets overpaid, we think they would be honest enough to see that they have been overpaid and give back the money to the person who paid more money than was needed for what they were buying. In fact, if business did not do that, you would think they were ripping you off.

It is somewhat incredible to me to imagine how the American public, when they see they are overpaying their taxes—we have more money than is needed to pay for the needs of Government, which are immense; $1.9 trillion, some pretty big need—the American public, at least through the polls, are saying: Well, keep it. We really don't need it. We don't really need a tax cut. At least that is what the polls would have you believe. I do not believe that.

I do not believe it is good business for the Government to keep money that it does not need because what the Government will do is what a business would do. They will take it and use it to benefit themselves, not benefit the customer.

I think that is what we are seeing happen already this year in Washington with the surplus projected for

next year to be some $14 billion. People are just banging down the door to spend that money. We spent half the surplus last night. The projected surplus is half gone. If we pass the Ag appropriations bill in the form it passed last night, it will be half gone. My guess is the House, and others, will want to pass even more than that.

So what my big concern is—I think the Senator from Nebraska hit the nail on the head—if we leave the money here, it will be spent. It will not be spent to benefit the broad economy. It will not be spent to benefit the average taxpayer in America. It will be spent to benefit those who are loud enough or politically powerful enough to get that money set aside for them.

That is not the way things should operate when, you, the taxpayer have paid more than you should, that we are going to take that money and give it to someone who screams the loudest to get that money here in Washington, or who has the political clout to get that extra money here in Washington. No.

What we have done in this modest tax relief package—everyone says how big this tax relief package is. This is modest tax relief. This is incremental tax relief. This phases in over a 10-year period of time. This is tied to meeting our surplus targets. In other words, if our debt payments do not go down as projected, guess what. Most of this tax cut, or a big portion of it, does not even happen in the future years.

So what is being talked about is this calamitous idea that we are going to give all this money—this horrible thing—back to the people who overpaid it. And at the same time, many are standing up saying: Look, we need this money to spend on all this. We need it here. Of course, the American public doesn't need it. You have more money than you need back home.

As someone who is raising four children, and one due in a month and a half, I can tell you that raising a family is very expensive. I am not too sure anybody would, if you think about it, mind having a couple extra hundred dollars to be able to do some things to help them and their family.

That is what we are talking about. It is not a huge tax cut. I wish it were. I wish we could reduce taxes more, give more surplus back. I wish we could cut Government spending, pare down the growth of this Government. But we are not even talking about that. We are talking about letting Government continue to increase its spending, letting the entitlement programs continue to flourish, and just giving a little bit of what is overpaid back.

I am excited about this particular package. There are lots of goods things in this package—reductions in rates, the marriage penalty tax relief, and one particular provision I want to speak about for a minute or two is the American Community Renewal Act.

The American Community Renewal Act was not in the bill that passed in the Senate. I entered into a colloquy with Senator ROTH, and he agreed he would look at what was included in the House package. He did. And included in this bill out of conference is a bill that does not just provide tax relief, which is what we talked about, but a provision that helps those people in poor inner-city and rural communities who are not being lifted by the rising tide of this economy with incentives, such as the zero capital gains tax within these renewal communities.

One hundred of them would be designated. Twenty percent of them at least would have to be in rural areas, with a zero capital gains rate to help businesses start in those communities; to provide help for home ownership; expensing of businesses would be increased; wage credits; real powerful incentives for employment opportunities to happen within these communities, housing opportunities to happen within these communities, to see a real transformation, using, again, the private sector, not public-sector programs, not the Department of Housing and Urban Development, but, in fact, private sector incentives for private sector development and home ownership, which is the real key to success in America.

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

Mr. SANTORUM. I thank the chairman for including that in the bill today.

Mr. ROTH. Mr. President, I yield 6 minutes to the Senator from Minnesota.

Mr. GRAMS. I thank the Chair.

Mr. President, in a few hours we are going to cast a very important vote to return tax overpayments to working Americans. The passage of the conference report of the Taxpayer Reform Act will signal a clear victory for all Americans. I commend the Senate Republican leadership and especially Chairman ROTH for their strong commitment to major tax relief in this Congress.

We promised to return to American families the non-Social Security tax overcharges they paid to the Government, and today we are going to fulfill that solemn promise. We can now proudly declare that: promises made are promises kept.

The proposed tax relief significantly reduces taxes for millions of American families and individuals and immediately eases working Americans' tax burden and allows them to keep a little more of their own money, again, for their own family's priorities.

The American people have every reason to celebrate this victory because they are the winners in this debate on tax cuts.

This tax relief is a victory for all Americans, particularly the middle-class, who will receive a $800 billion tax refund over the next 10 years.

It is a victory for millions of Minnesotans because each family in my state of Minnesota is expected to receive $8,000 in tax relief over 10 years.

It is a victory for the 22 million American couples who will no longer be penalized by the marriage penalty tax, because we completely eliminate this unfair tax.

It is a victory for millions of farmers and small business owners because this tax relief enables them to pass their hard-earned legacies to their children without being subject to the cruel death tax.

It is a victory for millions of self-employed and uninsured because health care is made more affordable to them with full tax benefits.

It is a victory for millions of baby-boomers because the pension reform allows them to set aside more money for their retirement.

It is a victory for millions of entrepreneurs and investors because the capital gains tax is reduced to stimulate the economy.

It is also a victory for millions of parents, students, teachers, and workers because higher and better education will be available and affordable with a variety of tax benefits included in this package.

By any standard, the working men and women of this country are the winners, not Washington.

Moreover, in my judgment, this tax relief plan is a highly sensible, responsible and prudent one. It reflects American values and is based on sound tax and fiscal policy. It comes at the right time for working Americans.

We must recall that Americans have long been overtaxed, and millions of middle-class families cannot even make ends meet due to the growing tax burden. They are desperately in need of the largest tax relief possible.

The budget surplus comes directly from income tax increases. These overpaid taxes are taken from American workers and they have every right to get it all back.

This tax relief takes only a small portion of the total budget surplus. In fact, only 23 cents of every dollar of the budget surplus goes for tax relief.

After providing this 23 cent tax relief, we have reserved enough budget surplus to protect Social Security and to reform Medicare, including prescription drug coverage for needy seniors. We further reduce the national debt and reserve funding for essential federal programs.

Contrary to Mr. Clinton's rhetoric that tax relief will cause recession, cutting taxes will keep our economy strong, will create jobs, increase savings and productivity, forestall a recession and produce more tax revenues. Somehow, he believes that if Americans spend the money, it is bad, but if it is left here for Washington to spend, it is good. History has proved again and again that tax cuts work. It will prove this tax relief is a sound one as well.

I am also pleased that this tax relief does not come at the expense of seniors. We have locked in every penny of the $1.9 trillion Social Security surplus over the next 10 years, not for government programs, not for tax cuts, but

exclusively to protect all Americans' retirement.

We have been working hard to reform Medicare to ensure it will be there for seniors. Prescription drug coverage for the needy will be part of our commitment to seniors to protect their Medicare benefits. Had the White House and Democrats cooperated with us, we could have fixed Medicare by now. The President discounted his own commission on Medicare reform.

In any event, we will continue our effort to preserve Medicare as Chairman ROTH reveals his Medicare bill in the near future.

We have reduced the national debt and will continue to dramatically reduce it. Debt held by the public will decrease to $0.9 trillion by 2009. The interest payment to service the debt will drop from $229 billion in 1999 to $71 billion in 2009. We will eliminate the entire debt held by the public by 2012.

As I indicated before, we have not ignored spending needs to focus on tax cuts as has been charged. We not only have funded all the functions of the government, but also significantly increased funding for our budget priorities, such as defense, education, Medicare, agriculture and others.

In fact, we set aside over $505 billion in non-Social Security surplus to meet these needs. This proves we can provide $792 billion in tax relief while not ignoring other important priorities.

This major tax relief does not come at the expense of seniors, farmers, women, children or any other deserving group.

On the contrary, it benefits all Americans and keeps our economy strong. And most importantly, this tax relief will give every working American more freedom to decide what's best for themselves and their families.

Mr. President, let me conclude my remarks by citing President Reagan who once said: ''Every major tax cut in this century has strengthened the economy, generated renewed productivity, and ended up yielding new revenues for the government by creating new investment, new jobs and more commerce among our people.''

President Reagan was right. This tax relief will do the same.

Now, Mr. President, we have done our job, and it is up to President Clinton to decide if he wants to give back the tax overpayments to American families or spend them to expand the government.

In Buffalo, NY, earlier this year, the President said: If we give the money back to the American people, what if they don't spend it right? In other words, the President looked down his nose at working Americans and said they are too dumb to spend their money right. They are smart enough to earn it, not smart enough to spend it. I hope the President will trust the American people and make the right decision.

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Wyoming.

Mr. ENZI. I thank the Senator.

Mr. President, I rise in strong support of the Financial Freedom Act of 1999. This bill represents the third prong in our plan to restore financial security to America's families. Along with saving Social Security and reducing the national debt, the Financial Freedom Act of 1999 marks another significant chapter in our continuing effort to bring stability to our national budget and financial discipline to Congress.

I congratulate the chairman of the Finance Committee, Senator ROTH, for his unwavering determination to provide greater financial freedom to America's families. Let there be no doubt about what we are debating today. We are debating whether we should return part of the overpayment by the taxpayers to the taxpayers, true overpayment. As an accountant, I am particularly concerned with that. We need to return the overpayment to the people who made the overpayment.

Or should we keep it in Washington to fund President Clinton's new bureaucracies and unproven Government programs? I am not talking about funding adequately the ones we have. I am talking about brand new ones that will require continuing additional funds. The choice is between tax relief and new spending, plain and simple.

I, for one, believe it is time to reward the ingenuity and hard work of our taxpayers by allowing Americans to keep more of what they earn. The Financial Freedom Act provides tax relief over the next 10 years with cutoffs if the surplus doesn't materialize. By phasing those tax cuts in over 10 years, this demonstration assures the American people that the money dedicated to Social Security will only be used for Social Security. Moreover, by making the majority of the broad-based across-the-board tax reduction contingent on reducing the national debt, this bill makes a real commitment to reducing the Federal debt and forces Congress to live within its means.

This legislation not only reduces the overall tax burden but reduces all the marginal income tax rates, beginning with the lowest rate and increasing the ceiling on the new 14-percent bracket. This plan will reduce much of the damage imposed by President Clinton's mammoth tax hike of 1993 and by the bracket creep that millions of Americans have experienced as a result of job and wage growth over the past 10 years. This broad-based reduction, which is the backbone of the act, would provide tax relief for all taxpayers. Let me repeat that: Anyone who now pays Federal income tax will see their bill go down as a result of the 1-percent marginal rate decrease in each and every marginal tax rate.

Moreover, this tax cut is especially aimed at the middle class. By increasing the income limits of the new 14-percent bracket by $2,000 for single filers, millions of Americans will see their tax bill reduced by $400 per year by this provision alone.

In addition to reducing all the marginal rates for taxpayers, the Financial Freedom Act eliminates one of the most egregious effects of our current Tax Code—the marriage penalty. We have heard a lot of talk about supporting the fundamental institution of marriage. This bill allows us to put our money where our mouths are by doubling the standard deduction and doubling the income limits of the new 14-percent tax bracket, bringing our tax policy in line with the rhetoric. If you are serious about helping the financial needs of millions of married couples across the country, you will support this legislation.

It also reforms our Tax Code and our tax policy by eliminating the infamous death tax. We encourage savings and thrift, and we provide much-needed relief for millions of ranchers, farmers, and small businessmen around the country, people who at the time of death will have to end their family business. As a small businessman who worked with my wife and three children selling shoes to our neighbors and friends in several Wyoming towns, I know firsthand how difficult the choices can be when you have to make that kind of a decision. The current tax on death punishes countless small businesses and farm and ranch families.

I congratulate, again, the people who have put together this, the cooperation there has been between the House and the Senate, the outstanding work of providing a balanced picture of tax relief to the American people while assuring that we can save Social Security, help Medicare, and pay down the national debt.

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the committee for giving us tax relief for the hard-working American family.

We have heard a lot of debate in this Chamber in the last few hours, but it comes down to a very simple issue, and that is whether we are for giving the people who earn the money the right to decide how to spend it. It comes down to one basic issue. We are for tax cuts, and I think the question is, Is the President for tax cuts? He campaigned saying he was for tax cuts for middle-income people, but the President has not supported tax cuts yet.

In fact, the major area of tax policy that the President gave us was the largest increase in the history of America. We are trying to cut back on those tax increases because we have a surplus and because we believe that the surplus should be shared with the people who gave it to us in the first place.

A lot has been said about Social Security and whether we are going to maintain the stability of Social Security. The answer is emphatically, we are; $2 trillion will come in over the next 10 years in Social Security surplus. The Republican plan that is before us today totally keeps that $2 trillion for Social Security stability.

The other $1 trillion in surplus over the next 10 years is in income tax surplus, withholding surplus, people's hard-earned money that they have sent to Washington in too great a quantity. It is that $1 trillion that we are talking about. We are talking about giving 25 cents per dollar of that trillion back to the people who earn it, and we think that is not only fair; it is required.

I worked very hard with Senator ASHCROFT and Senator BROWNBACK to eliminate the marriage tax penalty. This bill does it. We double the standard deduction so that people will not have a penalty because they get married. And, most of all, the people who need it the most are going to have total elimination of the tax on marriage. That is the schoolteacher and the nurse who get married and all of a sudden are in a double bracket, from 15 percent to 28 percent. One earns $25,000, the other earns $33,000, and together they go into the 28-percent bracket today. This bill eliminates that from the Tax Code forever, period—gone.

The President has said he is going to veto that tax relief, and I don't understand it.

Let me talk about what it does for women. Of course, the marriage penalty tax hurts women. But we also know that women live longer and they have smaller pensions. They have smaller pensions because women go in and out of the workplace, and they lose the ability to have that growth in geometric proportions in their pensions. That has been an inequity for women in our country. We eliminate that in this bill, or at least we try. We help by allowing women over 50 who come back into the workplace to be able to set aside 50 percent more in their pensions to start catching up. So where most people—all of us—have a $10,000 limit on a 401(k), a woman over 50 who comes back into the workforce after raising her children will be able to have a $15,000 set-aside in her 401(k). We also give help on IRAs.

It is very important to a woman who is going to live longer to have equal pension rights because she is more likely to have children, raise her children, maybe through the 1st grade or maybe through the 12th grade. We want to make sure we equalize that and recognize it. We have done that. Yet the President says he is going to veto this bill.

We have tax credits in this bill for those who would take care of their elderly parents, or an elderly relative, because we know one of the hardest things families face is how to take care of an elderly relative who doesn't want to go into a nursing home. Families would like to keep them. Sometimes they don't even want to do that, but long-term care is so expensive that they can't afford it. So we have credits for long-term care insurance, and we have credits for those who would care for their elderly parents.

So this bill lowers capital gains, lowers the death tax; it gives a benefit to everyone. The working people of this country deserve it. I hope the Senate will pass it. I hope the President will sign it and make good on all of our pledges to give the working people of this country relief.

Thank you, Mr. President.

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank the chairman, the Senator from Delaware, for his excellent work on crafting this compromise package and putting it together. I think it is a substantial bill of support for the American public. We need to give this money back to the American public for overpaying their taxes.

I rise in strong support of the conference report being considered today. This important bill provides broad-based tax relief to America's families and returns their tax overpayment to them in the form of a tax reduction. It is important that Congress return this money to the American people and allow them to do with it what they see fit.

I am particularly pleased to join in this effort on the elimination of the marriage penalty. The Senator from Texas, Mrs. HUTCHISON, has led this effort, along with Senator ASHCROFT. This bill does important work on eliminating the marriage penalty tax and reducing that pernicious impact on our society. The American people need to get this rebate. I think we can do more and better with it than the Government can.

The conference report before us takes important steps, as I stated, toward eliminating the marriage penalty. It doubles the standard deduction, as well as widening the tax brackets, which does much to alleviate that terrible impact that the marriage penalty has on America's families. It impacts nearly 21 million American couples in this country.

Doubling the standard deduction helps families. Our families certainly need help. I am, therefore, pleased that the conferees kept this provision, and I am hopeful that the President will sign the conference report and provide America's families with this important tax relief which they clearly deserve and clearly need.

Congress has drafted a tax bill. Now it will be up to the President. This session, Congress utilized its opportunity to provide for comprehensive tax relief. It has done that. Now the President must make use of this unique opportunity to help eliminate the marriage penalty.

It affects so many couples in our country—21 million—by forcing them to pay, on average, an additional $1,400 in taxes a year. The Government should not use the coercive power of the Tax Code to erode the foundation of our society.

We should support the sacred institution and the sacred bonds of marriage. Marriage in America certainly is in enough trouble the way it is, and it doesn't need to be penalized by the Government. According to a recent report out of Rutgers University, marriage is already in a state of decline. From 1960 to 1996, the annual number of marriages per 1,000 adult women declined by almost 43 percent.

Now, when marriage as an institution breaks down, children do suffer. The past few decades have seen a huge increase in out-of-wedlock births and divorce, the combination of which has substantially had an overall impact on the well-being of our children in many ways. It has affected every family in this country. People struggle, and they try to help to support the family and the children as much as they can. But this institution of marriage has had great difficulty. In my own family, there has been difficulty as well. The Government should not tax marriage and further penalize it. There is a clear maxim of Government that if you want less of something, tax it; if you want more of something, subsidize it. Well, we don't want less of marriage. We should not tax it.

Study after study has shown that children do best when they can grow up in a stable home environment, with two loving, caring parents who are committed to each other through marriage. Newlyweds face enough challenges without paying punitive damages in the form of a marriage tax. The last thing the Government should do is penalize the institution that is foundational in this civil society.

This year we change that. The new budget estimates, from both the Office of Management and Budget and CBO, show higher-than-expected surplus revenue, even after accounting for Social Security. Of course, for some, this is no surprise. We have known all along that growth does work. It helps and it works. Of course, the surging surplus is as a result of nonpayroll tax receipts. It is really a tax overpayment to the Government in personal income and capital gains tax. We must give the American people the growth rebate they deserve and return the overpayment. I believe we can, and must, start—and start now—to rid the American people of the marriage tax penalty. I look forward to working with the Chairman, as well as other colleagues, to make sure we get this job done.

In closing, this is a day we should celebrate. We are able to do something that sends a strong signal of support to families across this country, which is critically important to do. Yes, this has an impact overall, but I think it is a very positive impact to send that sort of signal to our struggling young families across this country. I think we clearly should do that.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I have the pleasure to yield 15 minutes to the distinguished Senator LAUTENBERG, my neighbor and friend from New Jersey, followed by 5 minutes to the distinguished Senator from South Dakota.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I ask whether or not the Senator from South Dakota would like to go first.

Mr. JOHNSON. I say to the Senator that I am certainly prepared to go at this time. But I would accommodate my friend.

Mr. LAUTENBERG. I suggest that he go first.

Mr. MOYNIHAN. Mr. President, I reverse my request.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

Mr. JOHNSON. I thank my friend from New Jersey.

Our Nation deserves a thoughtful tax and budget plan from Congress that places an emphasis on paying down our existing accumulated national debt, while protecting Social Security and Medicare, and investing in key domestic priorities and providing targeted tax relief for middle-class and working families.

On the marriage penalty, for instance, most families in America get a marriage tax bonus, not a penalty. But for those who are penalized, we can address that in the Democratic plan while approaching this in a balanced fashion. But, sadly, the radical tax cut bill being considered by congressional Republicans could be described as simply ''foolish,'' were it not so seriously dangerous to the future prosperity and security of every American family.

There are obvious reasons why even leading Republican economists so vigorously are condemning this irresponsible bill, and why it has become the butt of so much ridicule.

First, the bill assumes that a $964 billion surplus over that needed for Social Security will absolutely materialize over the coming decades while our budget estimators in the past haven't even been able to estimate the economic growth over a year much less over 10 years. Common sense tells us that we should be careful about committing to use money that we do not yet have and may never have.

Second, this plan fails to use even a cent of the supposed $1 trillion surplus above Social Security to help pay down the $3.7 trillion public debt that our Nation currently owes. Paying down our debts would do more to keep the American economy growing than any other single thing the Government could do.

Third, in order to find room for a $792 billion tax cut, we would have to not only pay down the accumulated debt but we would have to cut defense buying power by 17 percent and domestic programs, meaning law enforcement, VA, health, education, school construction, medical research, national parks, and so on by 23 percent over the coming 10 years. If we decline to cut defense, under this plan we then would have to cut these domestic initiatives by an outrageous 38 percent. What is even worse is that this tax bill is cynically constructed so that the drain on the Treasury will explode and triple in cost during the second decade after passage.

Fourth, economic experts all over the country tell us that this tax package would cause interest rates to go up. At the current time, the Federal Reserve is raising interest rates and warning us that putting one foot on the gas and one foot on the brake is not a sensible economic policy for our country.

The small tax cut that most Americans would receive would be negated through higher costs for financing everything from a house, to a car, to college education, to business expansion, and farming and ranching operations. If this bill becomes law, our middle-class families will wind up with fewer and not more dollars in their pockets.

Fifth, this bill does absolutely nothing to prolong the life of Medicare much less provide for drug coverage payment reform that hospitals and clinics and medical institutions all over our country are in dire need of securing.

Specifically, this legislation outrageously provides an average $22,500 tax cut for the wealthiest 1 percent of Americans. But a typical American family—a family in my State of South Dakota with an income of $38,000—would get a couple of bucks a week while paying higher interest costs for everything they buy.

Wouldn't it make more sense to use a large portion of any surplus that actually materializes to pay down the accumulated national debt and then provide for targeted tax relief for middle-class and working families, protect Social Security and Medicare, and make some key investments in education, in the environment, infrastructure, and the things that we need to continue the economic growth in America?

I yield the remainder of time that I may have to my colleague from New Jersey, Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I obviously oppose this Republican tax bill. I am going to explain why in a minute.

But I would like to start off by using an expression that we heard kind of invented around here, and that is: There they go again. There they go again. Or: There you go again.

The party that claims that its mission is fiscal responsibility has, once again, resorted to tax cuts to establish its role in fiscal management.

I find it shocking. I must tell you that we suddenly wanted to distribute a tax cut, which everybody likes to do. Make no mistake about it. I heard the President this morning say: After we finish securing Social Security and securing some extra longevity for Medicare, then we ought to distribute some tax cuts to people.

But if you ask anybody who has a mortgage—and most people I know have one—whether they would like to get rid of the mortgage before they do anything else, if they had a choice, they would take the mortgage relief. I will tell you that. They would say: Look, that is the one thing that bedevils us, and especially if the mortgage lives on beyond their existence on Earth, and it passes on to their children and their grandchildren. They would say: Look, let's get rid of that mortgage.

That is what we are talking about. We are all mortgagees in common when it comes to the national debt. We owe it. My kids owe it. My grandchildren will owe it if we don't get rid of that debt.

What is proposed by the Democrats is that we pay down the debt, that we have a target of 15 years to get rid of all the public debt. It would be unheard of in contemporary terms, and maybe in historical terms as well, because I don't think there is any country in the world that has any advancement that would find itself without significant debt outside the government. But that is what is being proposed.

Here we are. We want to give a tax break. And it works like this: The top 1 percent of wage earners who average $800,000-plus a year would get a $45,000 tax cut—just under $46,000. The person who works hard and struggles to keep their family intact, who struggles to keep opportunity available for their children's education and training and earns $38,000 a year, is going to get about 40 cents a day in tax relief. This fellow who earns over $800,000 is going to get a $45,000 tax break.

I have heard my colleagues on the other side say, well, they pay most of it; why shouldn't they get most of it? Why? Because what difference does it make in the life of someone earning $800,000 and some a year whether they get a $45,000 tax cut? I am not saying they shouldn't get anything, but it sure doesn't compare with the impact that it has when you take $157 and you give it to someone earning $38,000. It doesn't do much for them at all.

It permits this guy to buy a new boat, maybe even to make a downpayment on a second home. But to the other people who are struggling, often two-wage earners in the family, struggling to manage the future, it is impossible if you make $38,000 a year and you have a couple of kids.

The Republican plan is now stripped down to its bare essentials. It says to raid Social Security if we must to give this tax cut, and don't pay any attention to Medicare, while people all over this country worry about their health care. Over 40 million of them have no health insurance at all. We are talking about Medicare and the sensitivity of appropriate health care for people who are in their advanced years.

Our Republican friends are saying: Don't worry about Medicare. Maybe we will find a way to take care of it one day. Or Social Security: Well, if it expires—I guess that is what they are saying—we will have to deal with it.

Just think. With all of this robust economy and the surpluses that we have, the Republican tax plan says this: That in a mere 6 years we will be dipping into the Social Security surplus—6 years. With all the promises about the $2 trillion that is going to go into Social Security because it is earned there, it will start to be decimated within 6 years under the Republican tax plan.

I hope the message that goes out of here is that we are two different philosophies on how we ought to treat our treasure trough because we have been smart but we also have been lucky. We are lucky that we live in a country that is as rich in resources and talent and opportunity as is America. But, at the same time, it took a lot of work to plan for this. It took President Clinton's leadership when he arrived in office. Deficits were $290 billion a year—much of that attributed to the leadership of President Reagan who made a decision, in all due respect, that tax cuts were the most important thing in the world and cut taxes all over the place while he borrowed from the public to finance it. What was the result? Inflation out of sight, and a lot of joblessness as well. We don't want to do that again. We should have learned. We are smart enough to have learned it the first time we saw it.

What will happen now? Beginning 6 years hence in 2005, Social Security starts to decline at a time when a lot of baby boomers arrive at retirement age. It could force inflation upon us and cost more for borrowing. Whether for a house mortgage, an automobile, appliance, people would be paying more.

One of the most astounding things I find, all Members hover around Alan Greenspan because he has been so clever in the way he has managed his share of the economic policy in this country. We listen to every word. I know him well. He used to be on the board of my company when I was chairman of the company. We would listen carefully to his advice because it was so profound, so deep, so insightful. The Republican message is, ignore what Alan Greenspan says about the timing not being right; forget that he has warned Members in the Budget Committee—and I am the senior Democrat on the Budget Committee—that tax cuts are not the best way to go. He said rather than having an outright spending binge, maybe tax cuts, the best thing to do is pay down the debt.

The message rings loud and clear. I am shocked that the wise heads who exist on the other side of this aisle don't understand that the risk they are taking is our economy at large. When we look at the projections and we hear what the Republicans are using to finance this tax cut—almost $800 billion direct in higher costs as a result of the interest on the remaining debt—it just doesn't make economic sense. It is not fair to our citizens to see the guys at the top, the people at the top who make all the money, get these incredible bonuses in tax cuts while the person who struggles to keep food on the table and a roof over their head gets a measly 40 cents a day in their tax cut.

What will happen? What will happen is, tax cuts will come along if things go as they are, unless the President has the courage to step up and say, no, the American people don't want this; that is not their preference. Everybody wants to pay less in tax, but they want a stable society, a stable economy. They don't want their kids saddled with obligations in the future.

This tax cut will also mean we will cut deeply into programs. We will cut education by 40 percent. Will we cut veterans' programs? The veterans now are screaming in pain because they are not being taken care of as they should be or as we promised they would be when they were recruited.

Cut the FBI by 40 percent? Thank goodness we have trained FBI people. It is hard enough to recruit. Now we are talking of cutting 40 percent while we still have a significant crime problem in our country, despite prosperity? I don't think so.

Will they cut border guards? Are we going to try to hold back the tide of illegal immigration, with fewer people to do it? That is what the result will be.

The truth of the matter is, they are talking about a surplus that is largely imaginary. It is forecasting; it is anticipated; it is hoped for. That, enacted into legislation, will make an enormous difference. Once the tax cut plan is in place, that is mandatory. However, the surpluses are hoped for, anticipated.

We have to alert the public what is going on. It will be a tax cut that will be talked about as a Republican accomplishment. I make a prediction—and I wish we could look inside everybody's thinking—that the Republicans know very well that this tax cut cannot go through, but what they want to do is have a speaking platform. They want politics, not policy. They want everybody to believe they are the only ones who are thinking about the average working person. The fact is, they are thinking about themselves because they know the President is committed to veto this. They know the economy could not stand this kind of a cut.

Imagine cutting those programs and saying to the American people: We have to take 40 percent from various programs, and we will not do a thing to extend the solvency of Social Security, not do a thing about Medicare; when it dries up, it dries up, friends, in 2015. If you are at an age when Medicare will be important to you, don't count on it. You had better save your money because you will have to take care of yourself on that score.

In Medicare, the cuts would exceed $10 billion a year. Medicare cuts are squeezing many hospitals and other health care providers.

In sum, the game is over. We will be voting at a later time today. We have the disadvantage of being in the minority. It is not my preferred position, but the facts are there. The President is our last hope because the Republicans have decided that no matter what, they are going to give a tax break. No matter what the advice is, no matter what the inequity is, no matter what programs are cut, no matter what we do to veterans' care, no matter what we do to Head Start, no matter what we do to education generally, it doesn't matter.

They say a tax cut is the most important thing on our agenda. The numbers are there, and the votes are there. We will lose this one. I believe it is possible some of our Republican friends will see the light and say, this is no time to do a roughly $800 billion tax cut, but it is time to continue to pay down our debt, improve our financial condition, and help preserve Medicare and Social Security for future generations.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I congratulate the Senator from New Jersey on a forceful argument.

I now have the pleasure to yield 10 minutes to the Senator from North Dakota and 10 minutes to the Senator from Connecticut.

Mr. DORGAN. Mr. President, I am happy to allow the Senator from Connecticut to go first.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I thank my colleagues.

I rise to oppose this conference report and the $800 billion tax cut it contains. I do not rise reflexively. In fact, my reflex, similar to most of my colleagues, is to support tax cuts, not to oppose them.

I was proud just 2 years ago to be a lead cosponsor, for instance, of the cut in the capital gains tax and to support so many of the initiatives of the chairman of the Finance Committee in encouraging savings. However, I am going to oppose this tax cut as I would tax cuts at any time when they were not needed to help our economy, not justified by the availability of money to support the tax cut. These are similar arguments I made against the reconciliation bill, this tax cut, when it was before the Senate last week.

It reappears as a conference report. It is essentially the same. The chairs have been shuffled on this Titanic, but the fact remains that this big luxury liner of a tax cut is headed for an iceberg. It may well take the American economy down with it. The iceberg here is the cold, hard reality that there is no surplus to pay for the cut that this enacts. In fact, this Congress, in an act of legislative schizophrenia, is on one side saying there is a surplus, beginning with next year, that justifies this tax cut; on the other side, through fictional emergency appropriations, through double counting, through overspending, is spending more than the surplus projected for next year. So that

the reality is that ''there is no there there.'' There is no surplus there to pay for this tax cut.

My colleagues cite the Congressional Budget Office saying there will be, for instance, a $14 billion surplus next year and almost $1 trillion over the 10 years. But, as has been said on the floor, CBO, after making those surplus projections, also issued a report which makes very clear that they are based on Congress exercising self-control, the kind of self-control over spending we are showing each day of this session we are unable to exercise.

If you take the $1 trillion surplus the Congressional Budget Office estimated and then simply assume that Congresses over the next 10 years spends only the amount of money to operate our Government that we are spending this year, in 1999, adjusted only for inflation—real dollars—then that projected surplus of $1 trillion suddenly becomes $46 billion. What does it require to hold the $1 trillion surplus? Cuts in spending that we all know are untenable. They are not going to happen. This Congress, and no Congress over the next decade, would enact them.

I am privileged to serve on the Senate Armed Services Committee. I think in that capacity I have learned some about the needs of our national security and our military, our defense. To achieve the $1 trillion surplus and live within the caps that currently exist would require cuts in defense spending over the next decade of approximately $200 billion. We cannot fulfill our constitutional responsibility to provide for the common defense of the United States of America over the next decade with $200 billion in cuts.

I have too much confidence in my colleagues who serve today, as well as those who will serve over the next decade, to believe we would ever so jeopardize our security. It is just another way of saying the surplus projections are not real, and therefore enacting a tax cut which will not be backed up by available revenue will take America back down the road to a deficit before we hardly have had a chance to even appreciate the possibilities of a surplus.

Let us remember also a $1 trillion surplus estimate is based not only on a capacity in Congress to cut spending that we have clearly shown already in this session we do not possess because it is based on a projection of continued 2.4-percent growth in our economy over the next decade, extending what is already the longest peacetime growth in an economy in our history. Just look at the news in the last week or two and consider the probability that we will continue to grow over this next 10 years, unimpeded by the world and events in the world. The value of the dollar has weakened in recent weeks, creating great alarm in other industrialized democracies, particularly in Europe and Japan, our close allies, for fear of what that will do to their economies, and also for fear of what that will do to the foreign dollars that are currently invested in our economy that may be withdrawn and the consequences that would have for our economy.

Have you been following the stock market in recent days and watching the extraordinary gyrations in the American market which show underlying unease? Do we want to put into that situation a large tax cut, a tax cut of this immense size that will further threaten inflation and instability in our economy? Why? Why take the risk? Fiscal responsibility helped to bring our economy to the point it is today: An unprecedented combination of high growth, low unemployment, low inflation. Why risk it all for a tax cut that is not needed to stimulate the economy and not demanded by the people of the United States of America?

I think we have to be conscious of how our fiscal actions affect the very global economy which helps to give us our strength. We are the only G–7 country running a budget surplus today. We are the only leading industrial economy that is positioned to deal with the global demographic challenge of retiring baby boomers, if we discipline ourselves. As Asia and South America struggle through economic difficulties, we must remember that any sign of economic instability here could trigger an economic crisis there that will come back to bite us. We must have a strong economy. We have one now. Why jeopardize it? Why encumber it with debt? Why not save this money, pay down the debt, store it up to weather any economic crisis that may come our way?

There are times when I think of the famous Biblical story where Joseph advised Pharaoh in good times to put some away because good times would not last forever. I think we are in such a time now so we dare not let the cows and corn absorb themselves, as occurred in Joseph's dream.

The result, I fear, is by passing a major tax cut, one paid by an imaginary surplus, we would incur sizable debts for years to come. Besides the effects on the financial markets and on our economy, we would leave little or no money available for building the solvency of Medicare and Social Security and thus raise the specter of a major tax increase down the line when we will least be able to afford it to compensate for our profligacy now.

Finally, as has been said, I think anybody who has been following what Chairman Greenspan has been saying does not have to pick at the tea leaves. It has been very clear. If we cut taxes to this size now, the Federal Reserve will increase interest rates soon after. That will help to depress the economy and also hit average working Americans literally where they live, driving up the cost of their mortgages, their car payments, their credit card bills, and student loans to the point it would dwarf any tax benefit they might receive from this conference report.

I present as evidence an analysis done for Business Week magazine by Regional Financial Associates of West Chester, PA, which says that wiping out the debt, the national debt, by 2014 would raise the economy's growth rate by more than one-quarter of 1 percent at the end of the 15 years, and that real annual household income would grow by $1,500. That is more than three times, this study shows, what a tax cut of this size would boost the GDP and household income. A tax cut such as the one passed in the House, according to this study, would raise household income by $400; whereas paying down the debt would raise household income by $1,500.

So I will vote against the conference report and say when the President vetoes this bill he will not just be making another smart partisan political move in a political chess game; he will be saving the American economy from real damage.

I thank the Chair and yield the floor.

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

The Senator from North Dakota is recognized for up to 10 minutes.

Mr. DORGAN. Mr. President, I wanted to come and visit on the proposal on the floor briefly. I was trying to think of a word to describe all of this, and I was thinking of a story I had heard about Daniel Boone, who was a great Kentucky backwoodsman.

He was most at home in the backwoods and known for his long hunts, traipsing through the backwoods of Kentucky without a compass. He was asked once if he had ever been lost. Daniel Boone said: No, I can't say I was ever lost, but I was bewildered once for 3 days.

I thought of that term ''bewildered.'' I cannot think of anything that better describes my reaction to conservatives bringing a plan to the floor of the Senate that is so unconservative and so risky for this country. It is enough to bewilder the entire country, to see people who say they are conservatives decide that it is not their intent to help pay down the national debt during good economic times, it is not their intent to try to conduct the business we need to conduct to deal with the big challenges of Social Security and Medicare and the demographic time bombs that exist in those programs, it is not their intent to do that. Their intent is to package up a nearly $800 billion tax cut before we have had the first dollar of surplus and say for the next 10 years they are going to have this sort of riverboat gamble with this fiscal policy.

Let's talk just for a bit about where we are and then where we have been.

What is happening in this country? First of all, the country has an economy that is the envy of the world. Unemployment is down, inflation is down, home ownership is up, personal income is up, the welfare rolls are down, crime is down, economic growth is up, and the budget deficit is about gone.

Go back about 8 years. What was happening in this country then? A $290 billion annual deficit that was continuing to rise and economists predicted they would see these deficits rise forever into the future. We had a Dow Jones Industrial Average that had barely reached 3,000. We had a sluggish, anemic economy; job growth, 1988 to 1992 was one of the worst 4-year periods in history; unemployment rates, 7.1 percent annually from 1981 to 1992; median family income fell by $1,800 in a 4-year period; real wages were falling; welfare rolls were increasing.

Have things improved in this country? You bet they have improved in this country. They have improved because we passed a new fiscal policy, passed a plan in the form of legislation in 1993. Some of our colleagues predicted it would throw this country into kind of a train wreck and ruin the economy. The economy was in big trouble back then. It is much improved now. We all understand that.

In fact, today's newspaper is really interesting. A tiny little article on page 5 says:

Treasury plans to buy back debt.

My Lord, that ought to be on the front page with 3-inch headlines:

Treasury plans to buy back debt.

This country has $5.7 trillion in debt, and when we started with this plan we had a $290 billion deficit in that year alone, and it was expected to continue to grow. Now we have a balanced budget, and the Treasury is beginning to buy back debt.

If we have surpluses that economists say they can see well into the future, what do we do? During tough economic times, it seems to me, a country always borrows money. How about during good economic times? Does a country pay it back? Does this country say, in giving that rare gift to the young people in this country: We will reduce the Federal debt; we ran it up during tough times, but in good times when we have a surplus, we will reduce the Federal debt? No, that is not what the majority party says. The majority party says: Here are our choices. Big tax cuts, most of it going to the upper-income folks; nothing for Medicare extension; nothing for education and other key investments; nothing for Social Security solvency; nothing for debt reduction. They say big tax cuts.

How big are the tax cuts? Here are the pie charts. The top 1 percent of income earners in this country get a $46,000 tax cut, and the bottom 20 percent get $24. Is that surprising? No. It is the same tired, chronic problem that always is brought to us in the Senate when the majority party writes a tax bill.

This is a bar graph. You can barely see the bottom 60 percent. They only get $138; the top 1 percent, $46,000.

How about this Social Security issue? This plan also raids the Social Security program after the first 5 years. That is a plain fact.

What are our choices? The enduring truth of this country's existence for a number of decades has been two things: One, a cold war with the Soviet Union; and, two, a budget deficit that seemed always to grow worse. For four or five decades, that was the enduring truth that was overhanging all of our choices. Now the Soviet Union does not exist, the cold war is over, the budget deficits are gone, and everything has changed.

Economists predict surpluses well into the future, and I said before these are economists who cannot remember their home phone numbers or addresses and they are telling us what is going to happen 3 years, 5 years, 10 years into the future. God bless them, maybe they are right, maybe not. Forty of the forty-five leading economists the year prior to the last recession predicted it would be a year of economic growth. So economists do not always hit the mark. Economics, as you know, is psychology pumped with a little helium, an advanced degree, and then they give us projections. Our friends on the other side say just projections, that is enough, just projections alone will compel us to pass a bill that will take $800 billion and put it in the form of tax cuts, the substantial majority of which will go to the wealthiest Americans, and they will decide to take that gamble with the American economy.

It is their right. They have the votes. We do not weigh them here, we count them. And when you count up the votes, they win. But it is a risky riverboat gamble for this country's economy. Those who have been giving us the most advice about this plan of theirs and how wonderful it is for our country are the very same people who were so fundamentally wrong 8 years ago.

Now they say: We have a new plan. I say: What about your old one? It seems to me what we ought to do is make rational, thoughtful choices. Yes, there is room for a tax cut if we get the surpluses that the economists predict.

The first choice, it seems to me, ought to be, during good economic times you pay down part of the Federal debt. That is the best gift we could give the children of this country, and that would also stimulate lower interest rates and more economic growth.

The second choice for us to decide as a country is, we are going to confront a demographic time bomb in Medicare and Social Security, and we must confront it; let's use some of these surpluses to do that.

Third, let's also make sure our investments that make this a better country and better place in which to live are provided for. Yes, education, health care. Does anybody really believe it is going to help this country to have massive cuts in a program such as WIC, the investment we make in low-income pregnant women and children? Does anybody think massive cuts in those kinds of programs or massive cuts in Pell grants for poor students to go to college are going to help this country? I don't think so. That is where this plan leads us.

Our choices, in my judgment, are use this projected surplus when it exists to make a real dent in this country's debt and, second, let's have some targeted tax cuts, but after we have committed ourselves to extend the solvency of Social Security and extend the solvency of Medicare. Then let's make sure those programs that invest in human potential really do work; those programs in education and health care that make this a better country, let's make sure those programs are provided for as well.

To develop a plan that implicitly assumes—and, yes, it does, no matter how much they decry that is not part of what they are doing—that implicitly assumes you are going to have 20-, 30-, and up to 40-percent cuts in programs that we know in this country work, that strengthen this country and improve this country and invest in the lives of people in this country in a very positive way, makes no sense at all.

My colleagues have used charts to describe this tax proposal. There is, it seems to me, no chart that is better than this chart, which is where we were and where we are going. I hope we will decide to vote against this tax cut and have a more sensible fiscal policy as we go forward.

I yield the floor.

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

Who yields time?

Mr. GRAMM. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 20 minutes.

Mr. GRAMM. Mr. President, I have been called many things, some not always so flattering or nice, but I have never been called unconservative because I thought we ought not to let Government spend working people's money rather than giving it back to them.

There have been a lot of issues raised, and I want to go through and answer each and every one of them. Let me start with the rhetoric of our dear Democrat colleagues about, let's pay down this debt; don't give this money back to working people; we don't know what they are going to do with it; they might waste it; they might use it in an unwise way. Let Government keep it and we will pay down the debt, our Democrat colleagues say. But the problem with that rhetoric is it does not comport with the facts. Our problem is what they are doing speaks so loudly on this issue that we cannot hear their words.

I have here a chart. I know this chart is hard to read because my mama saw it on television and could not read it. But believe me, I can read it, and I am going to read it to you.

Both sides tend to claim we are right about figures. But to make Government work, we have a nonpartisan organization called the Congressional

Budget Office that is made up of experts, accountants, economists, that basically serve as a reality check on both Democrats and Republicans.

They just completed what they call their Mid-Session Review, where in the middle of the year they looked at the President's budget, which our Democrat colleagues are supporting, and they looked at our budget resolution, which included our $792 billion; and they reported to the Congress and the American people about these two competing programs and what they would mean in terms of the Government budget.

If you listened to our Democrat colleagues, they are trying to tell you it is a bad idea for us to give back roughly 25 cents out of every dollar of the projected surplus to working people. They say: Let us pay down debt.

But when the Congressional Budget Office looked at the President's budget, they found that the President is proposing, over the next 10 years, in his budget, to spend $1.033 trillion on increases for 81 Government programs. They found that the President proposes spending $1.033 trillion on 81 programs as an alternative to our tax cut, and since our tax cut under the Republican budget is $792 billion, we actually pay off $219 billion more in debt than the President does. They talk about this money being used to pay down debt, but the President not only spends every penny of the non-Social Security surplus, he has to plunder the Social Security trust fund in 3 of the 10 years just to pay for all of his new spending.

So when you hear one of our Democrat colleagues say: Oh, it is a terrible idea to give working people back roughly 25 cents out of every dollar of the surplus because wouldn't it be better to use it to buy down debt? Please remember that the budget they support, written by President Clinton, spends every penny of the non-Social Security surplus, plus roughly $29 billion. So while they say: Let us buy down debt. Their program is to spend every penny of that money on increasing 81 government programs.

The reason this is so important that people understand is, this is not a debate between buying down debt and tax cuts. In fact, as the nonpartisan Congressional Budget Office has shown, after you look at all the spending the President wants to do, he would buy down debt $1.959 trillion. Our budget, with this tax cut, would buy down debt $2.178 trillion, or $219 billion more.

The debate is not between buying down debt—in fact, we pay off more debt than the Democrats do. The debate is between spending the money on these 81 Government programs versus letting Americans keep more of what they earn.

If we were going to have a totally honest debate, it would be our Democrat colleagues standing up and talking about these 81 Government programs and the $1 trillion they would spend, and asking working Americans tonight to listen to what they say; listen to our tax cut; and then sit down around their kitchen table and ask themselves a question: Can Government in Washington, with President Clinton's programs, spend this money to help our family more than we could if we got to keep the money to spend on our own family? Can they do a better job spending our money than we can?

Obviously, that is a very different debate. Our colleagues do not want to have that debate. But their budget would spend every penny of the non-Social Security surplus.

So when people are saying: Don't give this tax cut. Let us buy down debt, their budget spends every penny of this money, plus plundering some of the Social Security trust fund.

So the debate is about whether we let the American people have the money and save it or spend it or invest it or whether they want to let Government spend it.

Our colleague said: Let's put some money away in case the good times don't last. Who is better to put money away in case the good times don't last? Working people, with their own money, or Government? When is the last time anybody remembers the Government putting money away for a rainy day?

I don't remember it. We are already $21 billion over the spending totals that the President and the Congress agreed to. We are not putting any money away here in Washington.

Yesterday, we had the adoption of a farm bill that spent another $7.4 billion, taking every penny of it right out of the surplus. So this money is being spent, is the first point, and that is the debate.

The second point is, some of our colleagues have said: Well, boy, this is a huge tax cut, and we don't need this tax cut.

And so I have two sets of figures I want to ask you to look at. The first is very interesting to me. These are the 7 years in American history where the tax burden on the American people has been at its highest level. One of my staffers, clever as he is, summed this up by saying, the ''Causes of Record Taxes: War and Clinton.'' Because if you look at the record tax burdens in American history, out of the six highest, four of them are Clinton years, and two of them are World War II—Harry Truman and Franklin Roosevelt—when defense was 38 percent of the economy and 37 percent of the economy. Now it is less than 3 percent.

The only other year where we have had a tax burden even approaching the one we have now was the year Ronald Reagan became President, and we were debating cutting taxes across the board by 25 percent.

Our colleagues say: Well, it was just a terrible thing to do. We should have never cut taxes when Ronald Reagan was President.

A couple making $50,000 a year, had we not had the Roth-Kemp tax cut, would have been paying $12,626 a year now in income taxes instead of paying $6,242. Our Democrat colleagues think that would be great. We thought it was a bad idea. So in the Reagan budget we cut taxes. The economy started to grow. We rebuilt defense. We won the cold war. We tore down the Berlin Wall. A lot of good things happened.

But this is the most telling chart of all. You hear all this stuff about: Oh, this is a huge tax cut, and many of the writers and many of the columnists are beginning to pick this up. But nobody goes back and looks at the facts.

Mr. DURBIN. Would the Senator yield for a question?

Mr. GRAMM. I will be glad to yield when I get through if I have time.

Now here are the facts. If you take revenues over the next 10 years that are projected, our tax cut is less than 3.5 percent. In other words, our tax cut cuts taxes, in terms of projected revenue, by under 3.5 percent. That is this huge tax cut we are talking about.

But this chart is really telling. The day Bill Clinton became President, before we raised taxes—or President Clinton raised taxes—many of our colleagues have pointed out that not one Republican voted for that tax increase; and I am proud to say that is true—before he raised taxes in 1993, the Government was taking 17.8 cents out of every dollar earned by every American in Federal taxes.

Today the Federal Government is taking 20.6 cents out of every dollar earned by every American in Federal taxes. That is the highest peacetime level of government taxes in American history, the second highest tax burden, second only to 1944 in American history. If we took the whole $1 trillion non-Social Security surplus—and I note that we are taking less than $800 billion—if we took all of it and cut taxes, we would still be taking, when the full tax cut is in effect 10 years from now, 18.8 cents out of every dollar earned by every American in Federal taxes.

Why is that important? It is important because what is being called a huge tax cut actually leaves taxes substantially above where they were the day Bill Clinton became President. So what is being called a huge, irresponsible, riverboat gamble—I was thinking Senator BREAUX might want to defend riverboat gambling—what is being called a huge gamble, we are simply talking about giving back some of this huge tax increase. By the way, the President said later, at a fund-raiser, that he raised taxes too much in 1993. Our tax cut would still leave the tax burden substantially above where it was when Bill Clinton became President.

Let me address the issue very briefly about rich people getting this tax cut. You need to understand when our Democrat colleagues speak that they have a code. The code is, every tax increase is on rich people; every tax cut is for rich people. So you don't ever want to cut taxes because it helps rich people.

You always want to raise them because it hurts rich people. You are not for rich people.

The problem is, when that argument was made on the President's tax increase in 1993, they taxed gasoline, and gasoline is bought by both the rich and the poor. They taxed Social Security benefits on incomes of $25,000 or more. That is hardly what we call rich.

When we debated this issue when it first came to the Senate, one of our colleagues got up and said: The Roth tax bill gives 60 percent of the tax cut to the top 25 percent of income earners in America. Can you imagine that this tax cut gives 60 percent of the benefits to the top 25 percent of income earners? But nobody bothered to point out that the top 25 percent of income earners pay 81.3 percent of the taxes. The truth is that the Roth tax cut, in terms of the rate cut, actually makes taxes more progressive, even though it reduces everybody's taxes. It reduces lower-income people's taxes more.

Actually, I wanted it to be cut across the board. You have heard many people say: Some 30 percent of Americans under this tax cut get no tax cut. Can you imagine a tax cut where almost 30 percent of the people get no income tax cut? That sounds crazy until you realize that roughly 30 percent of Americans pay no income taxes. Most taxpayers don't get food stamps. They don't get TANF. They don't get Medicaid because they are not poor. Those programs are not for them.

Tax cuts are for taxpayers. If you don't pay taxes, you don't get a tax cut. It is not because we don't love you. It is not because there is something wrong with you. It is just that tax cuts are for taxpayers. So we are cutting income taxes. If you don't pay income taxes, you don't get a tax cut. Remember that when you hear all this business about rich people and poor people.

Quite frankly, I think we do our country an injustice when we keep trying to pit people against each other based on their income. The plain truth is, if we could calculate this out, the Roth tax cut, the parts of it that we have enough data on in this short period of time to look at, it probably makes the tax code a little more progressive than it is. I don't think we ought to be doing that. I don't have any problem in saying, if you don't pay any taxes, you don't get a tax cut. If you pay a lot of taxes, you get a lot of tax cut.

If we had a 10-percent across-the-board cut—unfortunately, we don't quite get that; I am proud of what we got—but if Senator ROCKEFELLER makes 10 times as much money as I do, he would get 10 times as big a tax cut. Some people get upset about that, but I don't get upset about it.

Alan Greenspan has become, his utterances at least, almost like a bible. Everybody quotes him to make their point. Generally the people quote him to make points that are 180 degrees out of sync. If you listen to the quotes by many of our Democrat colleagues, you would believe that Alan Greenspan has said: Never, ever, ever, under any circumstance, should we give anybody a tax cut. The reality is, what Alan Greenspan has said is very clear. His first preference would be to not spend any of the surplus and to not give any of it back in taxes. But Alan Greenspan says:

> If you find that as a consequence of those surpluses they tend to be spent, then I would be more in the camp of cutting taxes, because the least desirable outcome is using those surpluses for expanded outlays.

I submit that is exactly where we find ourselves when we look at the fact that we are spending the surplus as quickly as we can spend it, and the President has proposed spending $1 trillion of it over the next 10 years.

The final point I will make, before summing up, is that several of my colleagues have been joshing me—and boy, it is legitimate. When I was in economics, I never made predictions that would either prove true or false within 100 years. And then I didn't worry about it.

It is true that when President Clinton submitted his economic program, as we debated it in those first 2 years, I said some awfully unkind things about it—not things you couldn't print in the paper, but they weren't generous. I suggested that if it was adopted, we would have a recession.

Our colleagues have said: Well, look at the wonderful economy we have.

In my final, major points, I will, as Paul Harvey, give you the rest of the story. To listen to our colleagues today, they would have you believe that all of the Clinton program was just a tax increase. But there were two other parts of it. If we are going to be fair to my quote, we need to be fair in saying there were two other parts of the Clinton program in those first 2 years. It certainly did raise taxes. I certainly was against it, and I still believe the economy would be better off if we had not done it. But the other two parts our Democrat colleagues want to forget. The first was a major spending program that spent $17 billion in the first year.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator's time has expired.

Mr. GRAMM. I ask for 5 additional minutes.

Mr. ROTH. I yield 5 additional minutes.

Mr. GRAMM. The second part of the program that everybody doesn't talk about is a proposal to spend $17 billion to "stimulate the economy." Our colleague from Oklahoma remembers it because we discovered, in one of the happiest discoveries in recent political history, that when you looked at that program, it was going to spend money on programs off a list submitted by communities, and on that list was an Alpine slide in Puerto Rico and an ice-skating warming hut in Connecticut. We had endless good times about that and, in the end, while we had a Republican minority and a Democrat majority, we actually filibustered and killed the $17 billion of spending.

I don't have my copy of the Clinton health care plan here, and that is probably good because if I picked it up, I might get a hernia. The third part of the program was for the Government to take over one-eighth of the economy by having one giant HMO—I think it was called a health care purchasing collective, or something—and all the doctors would work for the Government and the Government would run the health care system. So if we are going to be fair in quoting my statement, let's remember that the plan had three parts; we killed two of the three.

The final thing—and I probably ought not do this, but we are getting ready to go on recess, so why not. "Bill Clinton balanced the budget and made everything wonderful." We have all heard that. We heard it right before I got up to speak. But I have in my hand President Clinton's budget for fiscal year 1996. This was the budget that the new Republican Congress got in January of 1995. I do remember this. One of my staff provided me with these unkind remarks, when I said in 1993, regarding this Clinton health care bill, "If we pass it, we will be hunting Democrats down with dogs all over America." Well, we didn't pass it, but we did elect the first Republican majority in both Houses of Congress since 1952.

In any case, to finish my point, when this new Republican Congress got here, this was the budget the President had sent them. This budget, right on page 2, projected a deficit of roughly $200 billion through the year 2000. The new Republican majority took this budget and threw it into the trash can, and we adopted a new budget.

On this chart, here is the Clinton deficit projected in 1996. This is what we achieved with the Republican majority. Now, did we really do all that? No. Did Clinton do all that? No. The plain truth is that we had basically a stalemate, and we stopped virtually all new spending. In fact, with all this talk about the gloom and doom, we were able to control spending a little bit. The economy took off and we balanced the Federal budget.

So let me sum up by simply saying this. I want to congratulate our chairman, who has put together a tax bill that is as good a tax bill as you can write in the Senate and get 51 people to vote for. I want to congratulate him for his leadership. If you trust the American people and their ability to spend their own money better than the Government, vote for this tax cut. If you believe the Government can spend it better and will make America richer, freer, and happier by spending it, rather than letting them have it, then you ought to vote against it. That is the choice.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I point out that 80 percent of non-retired American adults pay more in Social Security taxes than income taxes. That is a point we are not dealing with much.

I have the honor and privilege to yield 5 minutes to my friend from Louisiana.

Mr. BREAUX. Mr. President, I thank the Senator from New York and also the distinguished chairman of the full committee, the Senator from Delaware. They are both distinguished gentlemen.

I just make a note that when we use the term ''distinguished gentleman,'' we use it sometimes lackadaisically in the Senate. In this case, I think it is important for us to note that there are probably no two finer gentlemen in this body today than the Senator from Delaware, the chairman of the committee, and the Senator from New York, the ranking member of our committee. They are gentlemen in the sense of how they have had to conduct the affairs of bringing this conference report and this tax bill to the American public. Although they have had differences in what they thought the ultimate product should look like, both of these two distinguished Senators have conducted themselves in the finest sense of being a gentleman, and they have worked together in a fashion that I think has kept our committee together. I congratulate them for that.

Let me say a couple of words about where we are. Unfortunately, the debate we are hearing on the floor today is about something that is not going to happen. We are spending all of this time talking about something that is not going to become law; it is not going to occur because none of this will, in fact, become legislation. It will only be something about which we have talked. Many colleagues on this side of the aisle are talking about how bad the provisions are in the conference report, and many colleagues on that side of the aisle are talking about how wonderful the provisions in the bill are.

The bottom line is we are talking about something that is not going to happen because it is very clear to everybody in America, and everybody in Washington knows, that when this bill gets down to the President in this form, it is going to be vetoed. The veto will not be overridden.

All of this exercise today, while I am sure it is important to make our political points, is not talking about what is going to benefit the people of our country. As a result of where we are, there will be no reduction in the marriage penalty. It is not going to be fixed. It is not going to be addressed by this product. There will be no reduction of income rates from 15 percent to 14 percent. That is not going to become law. There is not going to be any increase in the standard deduction for hard-working Americans. The standard deduction is not going to go up. The marriage penalty is not going to go down. Estate taxes are not going to be repealed. Estate taxes are not going to be reduced. It will be the same after this bill is disposed of. Child care credits are not going to go up. Health care credits for people who don't have health care will not be assisted because all of the things we have in these various pieces of legislation that we tried to get into a package that could be signed will, in fact, not be signed into law.

In many ways, this is an exercise in futility—in the sense that we know it will never become law. This debate, however, I think is still important. It is important to point out some of the things that are in the bill, which I find sort of interesting. I know my colleagues have looked at this list. It is a list of all of the things that are in the bill that are going to be sunsetted. We have more sunsets in this bill than they had in the movie ''South Pacific.'' The broad-based tax relief is going to be sunsetted. The marriage penalty will be sunsetted. The AMT relief, the capital gains reduction, and the individual retirement accounts, which Senator ROTH has worked so hard on, will be sunsetted. Assistance for distressed communities will be sunsetted. There is a sunset on every page. It is enough to put us to sleep. The problem is that all of these things we have are not going to become law.

But I think the debate we have is important because I always remain optimistic. I guess when I lose my optimism, I will lose my interest in serving in this esteemed body; and I haven't reached that point yet. I think it is important to have this debate. It is unfortunate that we only have 10 hours. It is unfortunate that we had 20 hours for 100 Senators to debate a major reform in the Tax Code of this country. I think we have to recognize that the system in which we bring tax bills to the Senate floor for open debate needs to go back to that old system where we have open debate on something as important as tax policy. We used to do it and produce good bills. The distinguished ranking member and the chairman remembers those days. We need to go back to the process whereby we have open and complete debate on tax laws in this country.

The final point I will make is that I hope sometime when we come back—after we have had the veto ceremony and the response to the veto ceremony, and everybody has gotten it off their chests, we can come back in September, as the chairman has said, and address the real issue of Medicare, try to look at what amount of money we really need in Medicare. We have a plug number in the Democratic bill of $320 billion. We don't need that much. I don't think we can spend $320 billion more in Medicare and make it any better than it is today. But we can reform it; we can figure out how much money we do need because we do need more money.

We can figure out how to craft a program that brings Medicare into the 21st century. It was a great program in 1965. This is approaching the 21st century, and the model of 1965 does not fit what we need to do for the 21st century. We need to reform it and figure out how much money we need for a good, solid prescription drug program, particularly one with catastrophic protection, and try to combine that legislation with a realistic tax bill.

I recommend that we also consider doing something on Social Security—certainly a lockbox, a temporary protection, but we need real reform for that program as well. We need to look at the private sector to help increase the return on Social Security investments from what we have right now as part of any real reform effort.

I hope that sometime late in September we will have an opportunity to look at trying to combine the business recommendations from all of our Members on Social Security reform and on true Medicare reform, and figure out what we actually need to put into a tax bill that would give real relief to all of these things we are sunsetting right and left, and come up with something that helps people who need the greatest help.

I voted for this bill in the Finance Committee to keep the process going forward. I voted for it when it passed the Senate the first time to keep the process going forward. Unfortunately, at this stage the process has now gone backwards. What we have before the Senate is more reflective of the House-passed bill, which I think does not really direct the limited tax help to those who need it the most.

It is interesting to note that, with all the trigger mechanisms, it looks like a shooting gallery as far as all the triggers that have to go into effect before the tax bill goes into effect. Add the sunset provisions with the trigger mechanisms, and I doubt that anybody in this body can tell you what the real tax benefits are going to be for the American people. Is it going to be $800 billion, or $545 billion, which is sort of pretty close to what a centrist group recommended of $500 billion. I suggest that we have, at best, a mishmash of differing recommendations and viewpoints about what the tax bill ought to look like.

I am not sure, with all the sunsets and everything else we have in here, that anybody can really describe exactly what we are presenting to the American public other than a political issue. We are going to have a great political debate on this from both sides of the aisle. We are going to criticize everything coming from our opponents from both perspectives, but we are going to ultimately be talking about what we didn't do. We are going to be talking about failure, and we are going to talk about whose fault it is that we didn't accomplish anything. That is really unfortunate.

I happen to think the American people would much prefer for us to have a debate on success: You did it. We did it. No. You did it. But at least we would be talking about success. We would be talking about something we did instead of debating failure and whose fault it was that we weren't able to come together.

We have a divided government. The President is a Democrat. He is going to be there until the next election. And who knows what after that?

I conclude by saying that I congratulate our two leaders. They did a terrific job. I greatly respect them for it. Hopefully, we can come back and do it later in a better fashion.

Mr. MOYNIHAN. Mr. President, I hope we have listened carefully to what the Senator from Louisiana has said. He is generous and optimistic, and it might just turn out to be true.

I yield the floor.

Mr. ROTH. Mr. President, I yield 10 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the chairman for yielding. Let me thank him for the tremendous work he has done in the last several months to produce a tax package that is here on the floor.

Let me turn to my colleague from Louisiana first. I wish the President would follow that Senator's leadership, for if he had followed his leadership, we would have a Medicare package and be working on it right now. But the President chose to politicize Medicare and to walk away from his Democratic colleagues whom he placed onto the Commission to do the work that they did so well in a bipartisan way.

And we are here today without a fix for Medicare because the President did not awaken to the responsibility he had in that regard and the opportunity that the Senator from Louisiana and the Senator from Nebraska had helped create in the Medicare Commission. I wish the President had awakened, but he chose not to.

We are here today debating a tax relief bill for the American people, a relief bill that, in my opinion, is responsible, reasonable. In all fairness, given the total picture of our budget and our projected revenues, it is, in fact, modest tax relief.

Some would be surprised by that statement on the modest size of this tax relief package if they were to listen to the rhetoric from the other side of the aisle. But that is the truth. It is responsible tax relief, within the responsible budget plan which we passed earlier this year.

Under this plan, we use three-fourths of the total budget surplus to pay down the public debt by nearly one-half over 10 years and completely protect the Social Security system. For the first time in the history of our Government, our budget commits us to reserving all of future Social Security surpluses and all future Social Security revenues exclusively for Social Security beneficiaries. That is a first for all of us; it is an important and responsible first.

If we continue to hold the line on new spending, that discipline plus some of the leftover surplus funds, also will allow us to accommodate prudent Medicare reforms, meet emergencies, and address additional priorities that we may face, also all within that three-fourths of the surplus that we are setting aside.

This tax relief bill draws on the remaining one-fourth of the total surplus. This is hardly not reckless, like some have said. It is responsible, reasonable, and modest to take just one-fourth of the total surplus and return it to the American people.

These facts seem to go unrecognized on the other side of the aisle. After we safeguard Social Security, meet the true and real responsibilities of Government, account for Medicare and other priorities, what we do in this bill is say to those whom we have overcharged, those who have overpaid their income taxes, we are going to refund to you a little of your own money.

Too many in Government and the press seem to miss this fundamental question: Who earns the money in the first place? Whose money is it? I am always fascinated by the debate on taxes when the other side seems to think that nearly everything the working person owns is the Government's. And if we are providing tax relief, somehow in our generosity, we are turning to them and smiling, and saying: We are going to give you back just a little.

Are we, to quote some on the other side, ''spending'' this money on a tax cut? Are we giving it back? No. We are saying it belongs to the worker who earned it, and that he or she should be able to keep a little more of the fruits of his or her own labors.

What we are suggesting is that we don't take so much in the first place—that we have enough right now to fund Government in a responsible way, and we ought to recognize that it is the working person out there we are taking it from, and we ought to return the overcharge.

This tax relief is phased in, meaning future Congresses will have plenty of time to react if the economic conditions of our country change. That is also part of the argument why this bill is responsible.

The bill represents only a 3.5-percent tax cut. That is modest, especially for the most heavily taxed generation in American history.

Some of the future tax relief won't even kick in unless the national debt is in fact being reduced. I think that is responsible. Yet we hear the mantra again of, pay down the debt, pay down the debt.

If you would read the facts of this tax relief bill we have put together, and the budget it implements, we are paying down a very substantial part of the debt—more than one-half of it. In fact, we already have paid down $142 billion in the public debt in the last 2 years.

Under our budget, and on top of this tax relief, we will pay down over $200 billion in debt more than the President's budget called for, even though he is one of those out there talking about debt reduction at this moment.

Let me make you a deal, Mr. President. You say you are going to veto the tax cut. Well, if you veto the tax cut, why don't you bring to us a lockbox proposal that puts all of the surplus in a lockbox to pay down the debt? A lockbox that makes a binding guarantee that not one cent of the surplus will go to new spending. You are not about to do that, Mr. President. But if you would, I would support you in it because debt reduction is important. It would help the economy of this country.

But one has to wonder if the President just flat isn't speaking with all of the truth that he ought to be. Look at his budget this year—tax increases and new spending. In fact, his own budget this year calls for spending the entire non-Social Security surplus, and then raiding the Social Security trust funds for some more new spending. I am sorry, Mr. President. What you say and what you do don't come together—they don't add up. What you say about new spending in your budget doesn't match what you say about debt reduction when you oppose this tax relief.

I don't think I would have to eat my hat on that kind of a promise to the President—that I would be willing to support him if he would take all of the surplus and put it in a fund to pay down the debt, because that is just not about to happen.

No, the real issue here is not tax relief versus paying down the debt.

The real issue is tax relief versus spending. We all know that. We were spending money yesterday. Frankly, I was helping spend some of it. That spending used some of the surplus and is going to relieve the current crisis circumstance in producing agriculture today across this country. I supported that agriculture appropriations bill because our farm families are facing an emergency. But I also know if we leave all the taxpayers' money in Washington, DC, all the surplus, it will get spent, and not just on emergencies. If we send it back to the people who earned it and own it, then it won't get spent by government. At least then, we would have to go back to the people and ask them for the right to spend more, by changing the tax structure to increase future revenues.

Who believes if Government takes in $3 trillion in surplus revenue over the next 10 years, that Government won't spend it? We know they will spend it.

The National Taxpayers Union Foundation does a little thing called ''Bill Tally.'' They tally up all of the new bills introduced by Members of Congress every year and what those new bills will represent in new and increased government spending. Mr.

President, 84 of 100 Senators—that means Democrat and Republican alike—last year introduced new legislation that would lead to an additional $28 billion in spending per year, on average. Not over the next 10 years but in one alone—Democrat and Republican alike. New ideas, new bills, new spending. It is the habit of Government. Of course, we know that. That represents about a $232 increase in spending from every American taxpayer that is already on the wish list of most of the Senate.

I hope and believe we can resist the temptation to spend the three-fourths of the surplus we reserve to pay down the debt, save Social Security, and reserve some for other future priorities. That is what we ought to be doing with it. That is what we promised in the Congressional budget we passed earlier this year. Yet, the temptation will be there to spend the remaining one-forth, and part of that three-fourths, as well.

The choice is very simple. The debate today is about bigger Government versus bigger household budgets—private citizen household budgets. I hope helping those American household budgets is what this Senate ultimately will support. I hope over the course of August we can convince this President that he really ought to be more on the side of the American taxpayer than on the side of ever-bigger Government.

This tax relief bill is fair. Yes, it is fair. I know we have heard the debate about tax cuts only going to the rich. The Senator from Texas did a marvelous job a few moments ago talking about how the folks on the other side of the aisle think it only goes to the rich. I am amazed and, frankly, frustrated that every time we talk tax relief, immediately Democrats run to the microphones and say it is for the rich, the rich are going to get the benefit of a tax relief proposal.

That just ''ain't'' so in this bill. The chairman of the Finance Committee in the Senate deserves a lot of credit for focusing this bill right on middle America, right at husbands and wives, working and trying to raise a family out there in the market place, wage-earners who are paying the bulk of these taxes.

Every American who pays income taxes will receive some benefit from this bill. The middle class Americans who pay most of the income taxes will get, by far, most of the income tax reduction. That is the way it ought to be.

What we are actually doing in this proposal is making the tax code a little more progressive. Middle-income taxpayers will receive proportionately more relief, for the taxes they pay, than upper-income taxpayers. But everyone who pays income taxes gets income tax relief.

This bill is fair because it shows compassion for the most heavily taxed generation in American history.

Several of my colleagues have come to the floor to talk about that tax burden. But I am amazed my Democrat friends and colleagues don't seem to recognize it. Surely they do. In fact, somehow, they actually are allowing their President to propose more taxes, which he did in his budget proposal this year.

That heavy tax burden has hurt people. It has robbed a whole generation of the opportunity to plan their retirement. It has forced families into adding a second and third income, rather than spending time taking care of children or elderly parents. It has robbed Americans of a major part of their freedom.

Today's baby boomer family is paying, on average, 50 percent more in taxes at all levels, as a portion of income, then their parents did when they were raising their families.

Only one year in history, 1944, at the height of the largest war in the history of the world, requiring incredible financial sacrifice, saw the federal government take in taxes a larger share of the national income than we are now paying.

This tax relief bill will help real people with real needs. There are two ways we can help people: We can create bigger government, with more bureaucrats, with more programs and red tape, regulating more behavior, and hope we produce some more government checks for some beneficiaries. Or we can let Americans keep a little more of their own money and meet their needs without Uncle Sam as the middle man. We can provide broad-based tax relief. We can provide targeted tax relief and incentives for folks to use for specific, beneficial purposes.

If we really care about people, we care about helping them in the most direct, most effective way possible.

Here's some of how we do that in this tax relief bill:

Marriage penalty relief: It just isn't fair to force two individuals to pay hundreds of dollars more in taxes simply because they get married.

Death tax relief: It just isn't fair that working families sometimes have to sell part or all of the family farm or the family business just to pay taxes. I've seen family farms carved up because of the death tax. The other side would have us believe that this is a debate about the so-called ''estates'' of rich people. It's not.

Help for families with children:

It would allow more parents to afford child care, both because it increases and expands the child care tax credit.

It allows more modest- and middle-income families to make full use of the child tax credit we enacted in the 1997 Tax Relief Act.

It expands the tax exclusion for foster care payments.

Help for individuals and families with education:

It would make education more affordable and available to individuals and families.

It includes tax-free, qualified tuition plans; extends the employer-provided tuition assistance; makes our 1997 education tax credits more fully available to modest- and middle-income families, by taking it out of the Alternative Minimum Tax calculations; and includes the Coverdell-Torricelli education savings account.

Help with health care, long-term care, and eldercare:

It increases the affordability of prescription drug insurance; health insurance for those who aren't covered by a corporate plan; long-term insurance, both for those who must pay for their own and those with cafeteria plans.

Farmers, small businesses, and workers will benefit from making the self-paid health insurance deduction 100 percent deductible.

Help for farm families: America's farm families are in a period of economic crisis today.

It provides for increased expensing, to $30,000; create FARRM Accounts—Farm and Ranch Risk Management Accounts; and protect income averaging from the Alternative Minimum Tax.

Help for folks who need retirement security: It includes expanded IRAs, 401(k) plans, and other provisions too numerous to mention, that especially will benefit folks over age 50.

Help for disadvantaged individuals seeking work: The Work Opportunity tax credit is reinstated.

Help for charities and charitable giving: 70 percent of taxpayers receive no recognition of charitable giving—because they don't itemize their deductions. This bill would reward and encourage those middle-class taxpayers who benefit their community, help the less fortunate, and promote the social good, with an above-the-line deduction for charitable donations.

This bill is needed by the American people.

When the facts are known, I am confident they will send one message back to Washington, DC: Please Mr. President, sign this bill into law. Let us keep one-fourth of the surplus for our families, our communities and our future financial security, instead of confiscating it for more big government.

I conclude by saying this is a fair tax proposal. In all fairness, compared with the total size of the Federal budget and the Federal government tax burden, it is modest. I close by once again recognizing the chairman of the Finance Committee for the tremendous work he has done to build that balance and fairness into this bill.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I have the great pleasure to yield 10 minutes to my good friend and colleague on the Finance Committee, the Senator from Montana.

Mr. BAUCUS. I very much thank my good friend from New York.

In a couple of years when the Senator is no longer here, we will miss him very much. I know of no Senator more provocative, in the best sense of the term, in forcing Members to think. That is something which too often is in short commodity on the floor of the Senate. I very much thank my friend.

This is a strange debate. I heard earlier my good friend from North Dakota, Senator DORGAN, say he is bewildered. I myself have referred to this debate as surreal. My friend from Louisiana, Senator BREAUX, asked: What are we talking about? Why are we here?

Those are apt comments in many ways.

One, because we know this bill will be vetoed. We know this tax cut that has been proposed is not going to happen. Yet both those who favor the tax cut and those who favor a veto are trying to score political points with the American people. There are a lot of games being played around here. I don't think that is any news to the American people. They know what is going on. They are pretty smart.

It is similar to President Lincoln saying you can fool some of the people some of the time but you can't fool all the people all the time.

The American people are smarter than the Congress thinks they are.

Let me go through some of the reasons. First, the assumptions behind this big tax cut are unrealistic and we all know they are unrealistic. I daresay that many on the other side of the aisle would agree privately with our public statements on this side of the aisle that the assumptions are unrealistic. There is no way in the world the Congress will jeopardize national defense by cutting national defense a couple hundred billion over the next decade. There is no way in the world the Congress is going to hurt veterans by dramatically cutting veterans' benefits. There is no way in the world the Congress is going to cut education and do all that is assumed behind this tax cut. Yet virtually the entire projected surplus we are spending in this bill is based upon exactly these things happening. That is one reason this is a surreal, unrealistic, illusionary, and strange debate. It is not based upon facts.

As others have pointed out, much more persuasively than I, the numbers of this tax cut as proposed do not add up. There is no way in the world we will be able to cut taxes $800 billion, pay the additional interest on the debt, and provide for a modicum of services that people need. Some have suggested—and nobody has disputed this number—that this tax cut will require about a $600 billion cut in spending over the next 10 years. It is unrealistic. It is not right. It is wrong to attempt to fool the American people that these levels of cuts are good for the country.

Beyond that, this bill is based upon such ephemeral, illusionary projections, it baffles me that anybody could stand on the floor and say it is necessarily going to happen—that we will have a $1 trillion budget surplus from tax revenues over the next 10 years. Past projections have been so far off the mark that it is foolish to assume this projection will be accurate.

On average, our projections are about 13 percent off the mark over 5 years. This is a 10-year projection. I point out that CBO, the agency on which we base our projections, stated in January of this year they were off $200 billion when they came up with their midcourse review in July of this year. The projections were $200 billion off over a period of just 6 months. Who knows how far off a 10 year projection could be? If we are honest with ourselves, we know most people are concerned that the economy is now overheated, rather than underheated, and therefore the projections will probably fall off and we will have much less of a budget surplus than we assume.

I point this out because it defies common sense that we lock in law tax cuts far out in the future based on these very flimsy assumptions. Why are we doing that? Most people wouldn't do that. Most people, putting their family budgets together, wouldn't do that. Certainly no business would do that. No business would assume that its revenues 10 years out were going to be absolutely a certain amount and therefore they are going to spend all this money today. You just cannot make that assumption. You have to be prudent.

I talked to the CEO of a major company just last week. I asked him how their company makes projections.

He said: We cannot. We try to make a 5-year projection, but we are always way off. The best we can do is we put together a 5-year plan and try to anticipate what the future is going to be like, but we are constantly modifying it because times are changing so quickly.

I think that probably makes sense. That is what we should be doing. We should not lock in tax cuts so far out. Rather, if we think tax cuts make some sense, they should be modest, to leave room for corrections if we have made a mistake.

Times do change very much. So, again, I say this bill is reckless. It is based on an illusion. It is just not prudent. I say to the American people, I hope you understand how imprudent all this is.

I must also make another point, and this point saddens me. We are in this strange, surreal situation, in part because there is so much partisanship in this body as well as in the other body. When I first came to the Senate about 20 years ago, I must say there was much less partisanship then than there is now. It is just too partisan now.

By that I mean the other side of the aisle is totally controlling and secretive in what they are doing. They have put together their tax bill on their own; behind closed doors. No Democratic Senators were allowed. The same with the conference report; behind closed doors, on their own, with no Democratic Senator allowed.

Not too many years ago when the Democrats were in the majority, both sides were included in drafting bills, both Republicans and Democrats. I think that is what the American people want. They want us to work together. They really do not care whether we are Republicans or Democrats; they really care that all 100 of us sit down, do the best we can, and recognize this is a democracy with different States, and different people who have different points of view, but achieve some rough justice and rough common sense.

I think there is a reason for the secrecy. There is a reason for the closed doors; that is, they can do things they know are not right, things that could not stand the light of day. If the doors were open and if both sides of the aisle were included, we would not have such phony budget projections. By ''phony'' I mean in the last couple of weeks, the other side directed CBO to come up with some new numbers based upon their own new assumptions to fit the conclusions they wanted.

What was the conclusion they wanted? The conclusion they wanted was to show we could cut taxes by $800 billion and still come up with $400 billion or $500 billion in spending revenue.

CBO said, ''No, you cannot do that,'' before. So the other side said, ''Just change some assumptions around so you can reach that conclusion.'' That is what they did. They did it privately. In fact, they distributed that chart on their side. They didn't even distribute it on this side because they knew, if we looked at it, we could probably find out how erroneous it was, how fallacious it was. We finally did.

I very much lament the secrecy and partisanship which is producing this product. I guess what bothers me most is, when I ran for the Senate and I think when most of us sought this office and were privileged enough to get elected, we came here because we wanted to address the major, big problems facing this country. We are not doing that. We are poised to move into the next century, the next millennium. Who are we as Americans? What do we want? What is our role in the world?

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

Mr. BAUCUS. I ask for an additional 2 minutes.

Mr. MOYNIHAN. Of course.

Mr. BAUCUS. I thank my friend.

Who are we? How much do we want to spend on defense? What is our role in the Far East? Who are we as a country? What about countries like Bosnia and Yugoslavia? How much should we spend there? What is our role there? What is the proper role of Government? Not the false debate that is set up here—turn the money back or don't turn the money back. That is a vacuous, vacant, insipid argument. It is so simple-minded. That argument avoids asking the real questions. Questions like what is the proper level of government, what taxes should be collected from where, how and when should we stimulate the private sector? Let's have a real honest debate on policy, not a phony debate on politics.

This has been a phony debate on politics, this last week, on this tax bill. It

has not been an honest debate on public policy, on what is right, on what the right levels of spending should be. It is not based upon the same set of numbers, the same facts. Everybody comes up with his own charts, his own different facts.

You know the old saying: Liars figure and figures lie. We cannot even agree on the same baseline. We can't agree on the same facts. By definition, we are just talking past each other. I guess that is what bothers me most and that is why I think this whole debate is most unreal and why it is sad. It is, in a large sense, not only a waste of time because we are not addressing the points that should be addressed, but it is a disservice to the American people.

I very much hope in the next month, in September and next year, the leadership on both sides of the aisle will work harder to put politics aside and the Senators themselves will work hard to put politics aside. I know that might sound like a political statement, but it is what I believe. In every ounce of my body, I believe it because that is why we are here and that is what we should be doing.

I very much hope after the President vetoes this bill, either there is no bill so we can start all over again, or we can come together in some appropriate way so we can get down to the real issues that face this country.

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

The Senator from New York.

Mr. MOYNIHAN. Mr. President, we now have a sense of why the Senator from Montana is an appreciated treasure in this body.

Now I yield 5 minutes to my friend from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President I thank the distinguished ranking member. I share the affection and feeling expressed by the Senator from Montana, about how much we will miss the remarkable insightfulness and stewardship of the Senator from New York.

Let me also associate myself with his praise of the Senator from Montana. That was a very thoughtful and very honest statement about what has happened in the Senate. I haven't been here quite as long as the Senator from Montana. I have been here 15 years. But I have never seen this body as polarized, as personalized, and as partisan as it is at this moment. I think it is very dangerous. It is dangerous for the country; divisive and difficult for the institution itself. I find it very hard, frankly, to understand.

I guess I can understand it in macro terms. I find it hard to understand in the context of why we all run for the Senate and what we are in politics to try to achieve. There is something more than just winning elections. There are some people around here who do not believe that, but I am convinced the American people believe that. Indeed, I think an adherence to that notion is what has made us different from other countries, and the best moments of the Senate have been when we have tried to adhere to that notion.

This is not a bill. This is not a tax bill. This is a political statement, a raw, fundamental, basic political statement. The statement is essentially one that seeks to say: Democrats want to spend money. Republicans want to give you back your money. That is the political statement. But it is not real when you look underneath it because the Republicans will join in September and October in spending the money because none of them are going to go back and tell the citizens of their State they are going to cut veterans hospitals, they are going to cut the Coast Guard, they are going to cut the FBI, and a host of other programs. None of them are going to do that. They are positioning themselves to say to their electorate: Gee, Clinton made me do it, but I wanted to give you back your money, even though the money wasn't there to give back.

It is one of the great posturings and one of the great frauds of recent time from the very people who brought you Gramm–Rudman that fell on its face, the very people who built the great deficits of the early 1980s when they adopted the Stockman philosophy of how to create crisis in Government and undo Government itself, the very people who predicted in 1993 that if we passed the 1993 Deficit Reduction Act there would be economic chaos, unemployment lines, massive economic failure.

The results are, here we are today with the best economy we have ever had in this country, with unemployment at record low rates, with the stock market at high rates, with the greatest sustained period of growth, and the very same people who brought you those three great failures are now trying to sell this snake oil to the American people.

Let's look at it as a political statement. That is what it is. It is a political statement. It is a political statement in which they are prepared to take the House tax bill that was worse than the Senate bill and bring most of it back so that their political statement is: 60 percent of American taxpayers get 14 percent of the tax break that won't happen. On the other hand, their political belief is that the top 10 percent of income earners in America ought to get 47.6 percent of the benefits of their tax statement that won't happen. So they can run around and say: Gee, we tried to service those who service us the best in the process of campaign financing. But the reality is, it is just a political statement.

The conference report remarkably delays the Senate's marriage penalty tax relief for earned-income tax recipients. I cannot tell you how many times we heard people on the other side of the aisle saying: Oh, my God, marriage is being destroyed in America; we have a disincentive for marriage, particularly among the poor in this country.

We heard it all through the welfare debate. We heard it from the Republicans year after year. Many of us say we ought to get rid of the marriage penalty. We voted to get rid of the marriage penalty, but they come back and delay for working people the capacity to get rid of the marriage penalty. In exchange for delaying getting rid of the marriage penalty, what do they think is more important?

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

Mr. KERRY. Can I have a couple minutes?

Mr. MOYNIHAN. Of course, 2 minutes because we are running down on time.

Mr. KERRY. They eliminate the alternative minimum tax that guarantees that the wealthiest of Americans will pay some kind of tax. So they trade off: Don't give the marriage penalty to the working poor, but give the wealthiest of Americans an exemption from the alternative minimum tax that guarantees fairness.

That is not all they do. They wipe away the tax relief for child care. They dropped the Senate provision. They provide additional capital gains tax relief for investors, but they provide no tax relief to the people who pay most of their taxes through the payroll tax in America, which is the vast majority of Americans.

There are many other egregious transfers to the wealthy at the expense of the average American. So let's take this as the political statement it is. It is a political statement that makes clear the priorities of their party, and it makes clear that they are prepared to even risk the high-technology boom we have been through, because when you give a tax cut of this level without sufficient money to pay for it at a time when the economy is doing well, as Alan Greenspan and countless Nobel laureates and economists have said: You are going to reduce capital formation and increase interest rate costs and, in effect, may even reverse some of the plus side that has given us this option.

It is a political statement that I think ultimately will come back to haunt them because Americans know better. There is no American in this country who does not appreciate the vast commitment we have had to children, to education, to higher education, to technology creation, transfers, to a host of things which make this country what it is: a better country and, in fact, an extraordinary country measured against all the other nations of the world in today's economy. I do not think we should put it at risk, and I hope colleagues will join in rejecting this political statement and in rejecting this irresponsible direction they seem prepared to adopt.

I thank my friend for the time.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Massachusetts for a forceful and needed statement. It was not easy to hear. It is true.

I am happy to yield 5 minutes to my friend from Virginia, known in the Finance Committee as ''commandant.''

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. I thank the Chair. Mr. President, I thank the distinguished ranking member of the Finance Committee, the Senator from New York, and mentor to us all. His presence, at the end of this Congress, will be missed in ways I do not think any of us fully appreciate.

First of all, I want to fully agree with the comments made by the Senator from Montana and the Senator from Massachusetts. I will try not to repeat those comments. My particular frustration in dealing with the bill before us today is that we are considering this huge tax cut, one which would normally be designed to stimulate the economy, and yet no economist I am aware of has suggested that such a stimulus is needed at this particular moment.

In fact, what is truly needed is not being done. This bill does nothing to address the two most pressing structural systemic problems, Social Security and Medicare. Instead of trying to bring about some responsible changes to the Social Security system and the Medicare system, we are taking a projected surplus we hope will occur, but may or may not occur, and spend it in a way that provides a stimulus to those who least need a stimulus at this particular time. Indeed, it is very hard to find someone who represents the group who will be most benefited by this bill who is actually asking at this time that we provide them with a huge tax cut or an economic stimulus. We just do not need it.

If we are going to enact a tax cut, it is my view that it should be in some targeted areas we know we are going to have to take care of anyhow. For example, we should have a permanent extension of the R&D tax credit, not cutting it back. Instead, we go through the same charade we go through each year, which makes it difficult for those who must make decisions about investing in research and development to make the kinds of decisions they need to make. The bill also fails to target tax credits for investment in information technology training, which is so clearly the cutting edge of our economy today. We are not making those investments in this bill.

What we are doing is making a huge tax cut available to those who are disproportionately in the middle- and upper-income brackets in this country, and not providing the basic investment in infrastructure.

My personal preference is to not have a tax bill at this point. If we cannot do better than the one we have, I would rather have nothing, notwithstanding some of the good things upon which both sides agree, and simply begin to pay down the debt. We are in such a hurry, however, to deliver the good news that we are going to give money back to you that ought to be yours in the first place, even if we are only going to give you $4 billion of it back in the year 2000. Even though it is only $4 billion, those who support this bill are attempting to take credit for full $792 billion, the lion's share of which will not be until the end of the next decade. This bill is going to lock in statutorily those changes which will make it very difficult for those who serve in succeeding Congresses and succeeding administrations to make the corrections they may well be called upon to make.

I am certain we will hear a scream from those on the other side of the aisle if we even think about what could be scored in any way, shape, or form as a tax increase, even though it would only be correcting a tax cut that most people who have common sense and have some sense of fiscal responsibility view as a mistake today.

I will not extend the debate. I will only observe that even though I disagreed with the original proposal, there were a small number from this side of the aisle who were willing to go along in the hope that some sort of compromise could be reached. And we took a bad bill and made it worse, and drove off the Democrats who were prepared to participate in a bipartisan solution.

So it does go to what the Senator from Massachusetts just suggested. It is a political bill. It is regrettable because we have an opportunity, for the first time in a long time, to do something really fiscally responsible in terms of the kinds of obligations that we have in this body and the other body, in concert with the White House at the other end of Pennsylvania Avenue.

I regret we are in a situation that we cannot act in a fiscally responsible manner and address the true pressing needs, such as Social Security and Medicare, instead of what we are doing.

I know the time has expired.

With that, I urge my colleagues to oppose this particular measure, and to work eventually with those on the other side of the aisle to come up with a constructive, fiscally responsible measure to meet our legitimate needs.

With that, I thank the distinguished Senator from New York, as well as praise, although I am not in agreement with, the distinguished chairman of the committee, the Senator from Delaware.

I yield the floor.

Mr. MOYNIHAN. Mr. President, it would appear that the force of the argument on this side of the aisle has silenced our friends on the other side, in which case I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mr. MOYNIHAN. I am happy to yield 5 minutes to my friend from Massachusetts.

Mr. KENNEDY. Mr. President, in just a few moments we are going to be casting an extremely important vote that will in many ways have a dramatic impact on the economy of this country.

I had the opportunity to be here in 1981 when we had a Republican proposal on a tax program. At that time there were 12 of us who voted in opposition to that program. But it passed, and we saw our Federal debt grow from $400 billion to close to $4 trillion over the period of the next years because of the economic forces that were put in place by that tax program.

It had a very dramatic impact, particularly in terms of the allocations of wealth and the distribution of wealth here in the United States. Those that had resources benefited enormously, but for the great majority of the Americans, they had to work longer and harder just to hold on.

Then in 1993, the Democrats passed a very important tax measure. The implications of that tax program, which took some belt tightening, so to speak, had a very dramatic impact in terms of our economy. That policy, more than any other single action we have seen, has had a more positive impact on our economy than any other action that has been taken by the Government. The point is that a tax bill of this magnitude has enormous impact on our economy as well as in relation to the issues of distribution. We now have before us, in 1999, a third rather dramatic proposal.

Mr. President, very few decisions we make in Congress will have more impact on the long-term economic well-being of our nation than how we allocate the projected surplus. By our vote today, we are setting priorities that will determine whether the American economy is on firm ground or dangerously shifting sand as we enter the 21st century. This vote will determine whether we have the financial capacity to meet our responsibilities to future generations, and whether we have fairly shared the economic benefits of our current prosperity. Sadly, the legislation before us today fails all of these tests. We should vote to reject it.

A tax cut of the enormous magnitude proposed by our Republican colleagues would reverse the sound fiscal management which has created the inflation-free economic growth of recent years. That is the clear view of the two principal architects of our current prosperity—Robert Rubin and Alan Greenspan. Devoting the entire on-budget surplus to tax cuts will deprive us of the funds essential to preserving Medicare and Social Security for future generations of retirees. It will force harsh cuts in education, in medical research, and in other vital domestic priorities. This tax cut jeopardizes our financial future—and it also dismally

flunks the test of fairness. When fully implemented, the Republican plan would give 80% of the tax cuts to the wealthiest 20% of the population. The richest 1%—those earning over $300,000 a year—would receive tax breaks as high as $46,000 a year, while working men and women would receive an average of only $138 a year—less than 40 cents a day.

Republicans claim that the ten year surplus is three trillion dollars and that they are setting two-thirds of it aside for Social Security, and only spending one-third on tax cuts. That explanation is grossly misleading. The two trillion dollars they say they are giving to Social Security already belongs to Social Security. It consists of payroll tax dollars expressly raised for the purpose of paying future Social Security benefits. Clearly, these dollars are insufficient to achieve our goal of protecting Social Security for future generations. Yet, Republicans are not providing a single new dollar to strengthen Social Security. They are not extending the life of the Trust Fund for even one day. It is a mockery to characterize those payroll tax dollars as part of the surplus.

That leaves the $964 billion on-budget surplus as the only funds which are available to address all of the nation's unmet needs over the next ten years. Republicans propose to use that entire amount to fund their tax cut scheme. Since CBO projections assume that all surplus dollars are devoted to debt reduction, the $964 billion figure includes over $140 billion in debt service savings. The amount which is available to be spent—either to address public needs or to cut taxes—is only slightly above $800 billion. As a result, the $792 billion Republican tax cut will consume the entire surplus. It will inevitably usher in a new era of deficits—just as the baby boom generation is reaching retirement age.

Most Americans understand the word ''surplus'' to mean dollars remaining after all financial obligations have been met. If that common sense definition is applied to the federal budget, the surplus would be far smaller than $964 billion.

We have existing obligations which should be our first responsibility. We have an obligation to preserve Medicare for future generations of retirees, and to modernize Medicare benefits to include prescription drug assistance. The Republican budget does not provide one additional dollar to met these Medicare needs.

The American people clearly believe that strengthening Social Security and Medicare should be our highest priority for using the surplus. By margins of more than two to one, they view preserving Social Security and Medicare as more important than cutting taxes.

We should use the surplus to meet these existing responsibilities first, in order to fulfill the promise of a retirement with both financial security and health security. If we do nothing, Medicare will become insolvent by 2015. The surplus gives us a unique opportunity to preserve Medicare, without reducing medical care, or raising premiums for senior citizens, or raising the retirement age. The Republican tax cut would take the opportunity away. It would leave nothing for Medicare. In fact, this legislation will actually force additional cuts over the next five years. Under existing budget rules, which Republicans have refused to modify, the enactment of this tax bill will force a sequester of Medicare funds.

Senate Democrats have a realistic alternative. We have proposed to use one-third of the surplus—$290 billion over the next ten years—to strength Medicare and to assist senior citizens with the cost of prescription drugs. The Administration's 15 year budget plan provides an additional $500 billion for Medicare between 2010 and 2014. Enactment of the Republican tax cut would make this $800 billion transfer to Medicare impossible. If we squander the entire surplus on tax breaks, there will be no money left to keep our commitment to the nation's elderly.

Unless we use a portion of the surplus to strengthen Medicare, senior citizens will be confronted with nearly a trillion dollars in health care cuts and skyrocketing premiums. We know who the people are who will carry this enormous burden. The typical Medicare beneficiary is a widow, seventy-six years old, with an annual income of $10,000. She has one or more chronic illnesses. She is a mother and a grandmother. Yet the Republican budget would force deep cuts in her Medicare benefits in order to pay for this exorbitant tax out

The Republican tax cut, if enacted, will also make it impossible for us to assist Medicare recipients with the high cost of prescription drugs. That is one of the choices each of us will make when we vote on this bill.

The cost of prescription drugs eats up a disproportionately large share of the typical elderly household's income. Too many seniors today must choose between food on the table and the medicine they need to stay healthy or to treat their illnesses. Too many seniors take half the pills their doctor prescribes, or don't even fill needed prescriptions—because they cannot afford the high cost to prescription drugs. Too many seniors are ending up hospitalized—at immense costs to Medicare—because they are not receiving the drugs they need. Pharmaceutical products are increasingly the source of medical miracles—but senior citizens are being denied access to the full benefit of these new drug therapies. Remedying these inequities should be our priority. Instead, with these enormous GOP tax breaks, we are ignoring the basic needs of the elderly.

The Republicans claim that their tax bill provides a prescription drug benefit for the elderly—but it is a meaningless provision which few if any seniors will ever be able to use. The provision is contingent on a whole series of other legislative actions that may not occur. Thus, it may never take effect. Even if it takes effect, it provides an above the line tax deduction for private insurance premiums which can only be used by the small percentage of more affluent senior citizens who itemize deductions. The vast majority of elderly taxpayers will never be able to use this provision.

The projected surplus also assumes drastic cuts in a wide range of existing programs over the next decade—cuts in domestic programs such as education, medical research and environmental cleanup; and even cuts in national defense. We have an obligation to adequately fund these programs. If existing programs grow at the rate of inflation over the next decade—and no new programs are created and no existing programs are expanded—the surplus would be reduced by $584 billion. That is the amount it will cost to merely continue funding current discretionary programs at their inflation-adjusted level.

In other words, the Republican tax breaks for the wealthy would necessitate more than a twenty percent across the board cut in discretionary spending—in both domestic programs and national defense—by the end of the next decade. If defense is funded at the Administration's proposed level—and it is highly unlikely that the Republican Congress will do less—domestic spending would have to be cut 38% by 2009. No one can reasonably argue that cuts that deep should be made, or will be made.

We know what cuts of this magnitude would mean in human terms by the end of the decade. We know who will be hurt.

375,000 fewer children will receive a Head Start.

6.5 million fewer children will participate in Title I education programs for disadvantaged students.

14,000 fewer biomedical research grants will be available from the National Institutes of Health.

1,431,000 fewer veterans will receive VA medical care.

These are losses that the American people will not be willing to accept.

The Democratic alternative would restore $290 billion for such domestic priorities, substantially reducing the size of the proposed cuts. A significant reduction would still be required over the decade. One thing is clear—even with a bare bones budget, we cannot afford a tax cut of the magnitude the Republicans are proposing.

Our Republican colleagues claim that these enormous tax cuts will have no impact on Social Security, because they are not using payroll tax revenues. On the contrary, the fact that the Republican budget commits every last dollar of the on-budget surplus to tax cuts does imperil Social Security.

Revenue estimates projected ten years into the future are notoriously

unreliable. As the Director of the Congressional Budget Office candidly acknowledged: ''Ten year budget projections are highly uncertain.'' Despite this warning, the Republicans tax cut leaves no margin for error. If we commit the entire surplus to tax cuts and the full surplus does not materialize, or if we have unbudgeted emergency expenses, Social Security revenues will be required to cover the shortfall.

The vote which we cast today—the choices which we make—will say a great deal about our values. We should use the surplus as an opportunity to help those in need—senior citizens living on small fixed incomes, children who need educational opportunities, millions of men and women whose lives may well depend on medical research and access to quality health care. We should not use the surplus to further enrich those who are already the most affluent. The issue is a question of fundamental values and fundamental fairness.

Unfortunately, Republicans returned from the Senate-House Conference with a substantially more regressive bill than the one the Senate passed last week. The current bill contains a costly reduction in capital gains tax rates which was not in the Senate bill. The current bill completely eliminates the estate tax, providing enormous new tax breaks to the richest few. It also provides more than twice as much in tax cuts for multinational corporations as the Senate bill did. Yet, the permanent extension of the research and development tax credit—the provision which would do the most to help many of those businesses whose innovations have created jobs and fueled our prosperity—was not included in this legislation. Instead, only a brief extension of the credit was provided. How extraordinarily shortsighted. In order to plan this research efficiently, the companies need to know what the rules will be in future years. The permanent extension of the research and development tax credit is the type of tax cut we should be passing. Unfortunately it is not before us.

Democrats believes in tax cuts which are affordable and fairly distributed. The Democratic alternative, which I support, would provide $290 billion in tax relief over the next decade. That is an amount the nation can afford without endangering the economic progress we have made and without ignoring our responsibilities to Medicare, to Social Security, to education, and to other vital programs. We oppose the $792 billion Republican tax bill because it would poison our prosperity and lead to a crippling rise in interest rates. We oppose the Republican bill because it would consume the entire surplus, and distribute the overwhelming majority of it to those who already have the most.

That is not the way the American people want to spend their surplus. I urge my colleagues to reject the bill. The American people deserve better than this.

Mr. MOYNIHAN. May I say to my friend from Massachusetts that the Office of Management and Budget has computed exactly what those sequesters would be, and they are horrendous.

Mr. KENNEDY. I thank the Senator.

Mr. MOYNIHAN. I yield the floor.

Mr. ROTH. I yield 5 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I thank the Chair, and I thank the chairman and his committee for the work they have done on this bill.

I rise to encourage my colleagues to vote yes when this vote is taken. I have had the privilege of sitting in that Chair, Mr. President, for a good part of this debate and have seen, with very clear eyes, two different philosophies on the floor of the Senate. One is a philosophy that says that Government spends money better than people can. That philosophy would grow Government. The other philosophy says we trust people; we don't trust Government as much. That philosophy, which trusts people, says let's grow families. Let's trust them to spend it for their needs because they can do it better than we can imagine it here inside the beltway.

As I look at this plan that has been produced by our Finance Committee, and through this conference process, my conditions for voting for this have been met. I see both sides allocating the same amount to Social Security. I see both sides allocating the same amount to Medicare, save that we do not expand Medicare, but we dedicate a great deal of money to Medicare.

I see both sides making the same commitment to debt reduction. In fact, this Republican proposal conditions the tax cuts upon the actual realization of the surpluses. So people that say we are spending the surplus or spending it without it actually being realized, we will not do that. We will not spend it in the sense of tax cuts if, in fact, these surpluses are not realized.

So the question really becomes, Who is going to spend the surplus? Our friends on the other side would do it to grow this Government. We, on this side, would spend it to grow families because we trust people more than we trust Government to spend it wisely.

I tell you, as I look at the things that are provided in this tax package, I like what I see. When I look at reducing estate taxes, I say yes because, as a philosophical matter, I do not believe that it is the Government's business to tell you and me how we allocate our estates when we die. It is about redistribution of economics, which is what they are proposing, which is the law. I don't think that is the Government's role. I think we should trust people to distribute their money as they see fit.

I look at the marriage penalty reduction. I don't think there should be a bias in our Tax Code against people marrying. I think it is terribly unfair when you have two working spouses, one has a high income, and the other may have a lower income; one is a corporate executive, the other is a schoolteacher; but the schoolteacher, the one with the lower income, gets taxed at the higher rate. What is fair about that? That is wrong. That is a bias against marriage that we should eradicate. If President Clinton wants to veto that, I will let him justify it.

I look at the reduction of capital gains taxes, and I wonder, frankly, why we are taxing this capital twice. We should not be taxing it. We should be reinvesting it.

That brings me to an important point. I am extremely frustrated every time I hear President Clinton or any other politician take credit for creating jobs. You and I, as politicians, as public servants, do not create jobs, unless we own the stock or unless we buy a bond, unless we invest in the free enterprise system that allows labor to go to work. When you hear President Clinton or any other politician claim they have created jobs, the predicate of that claim is that we are a centrally planned economy. And we are not. We are a free market republic.

I think if my party has any contribution to make to this country, it is to make sure we do not become a socialistic, democratic welfare state, because if we become that, we will suffer the kinds of economic consequences that, frankly, our friends in Europe and Asia are suffering, which is little or no growth, high inflation, high interest rates, enormous unemployment rolls. That is the kind of system I don't want to be part of creating.

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

Mr. SMITH of Oregon. If I may have 1 final minute.

Mr. ROTH. I yield 1 more minute.

Mr. SMITH of Oregon. I think that is what is at stake. What kind of an America do we want? Whom do we trust? Are we the party of government or are we the party of the people?

It is a question of whom you trust. It is a question of how you spend the money. When it comes to the essential programs, our programs are the same. When it comes to spending, we spend it differently. One does it for government; the other does it for families.

I urge my colleagues to vote yes on this important piece of legislation.

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I thank the Chair.

Mr. President, I have been on and off the floor all day. We have been at this for about 6 hours. I suspect most everything has been said, but we all, of course, haven't said it.

I rise in support of what we are attempting—for the idea that we can do the things that are essential for the Federal Government to do and at the same time return substantial amounts of money to the people who own money, the taxpayers.

I have been amazed at all the discussion that has gone on. We are talking about a fairly simple thing—tax relief. Yet I hear from the other side of the aisle how damaging that is to the economy. That is hard to imagine, isn't it, that returning money to people who have paid it in is going to damage the economy.

We have tax relief based on our best estimate, provided by those who do professional estimating, that we will have a $3 trillion surplus over the next 10 years. Will it happen? Who knows. No one can guarantee it. But that is the way you have to plan any enterprise, by the best estimates you can make. We find ourselves now, of course, paying the highest taxes as a percentage of gross national product of any time since World War II. Surprising, isn't it, in this large of an economy. It certainly means one thing; that is, that the Government continues to grow.

I think it is interesting to see the polls. When they ask, what is your highest priority? Do you like Social Security? Do you like Medicare? Do you like tax reduction? Tax reduction generally is the third one. That is not the point. We are setting aside Social Security before we do tax reduction. We are sustaining enough money to take care of Medicare. So that is not the choice.

The better poll would be: What do you do after you have taken care of Social Security? What do you do when you have taken care of Medicare? Should you return the money? I think so.

I saw somebody use an example of the simplest way to look at it, suggesting that you have three dollar bills in your hands, each representing $1 trillion. You say: I am going to set aside two of these dollars to do something with Social Security because that is where the surplus comes from. I am going to spend part of the third one for Medicare and the other costs that will be there. And about two-thirds of the last one we are going to give back to the people who sent it in because it is an overpayment of taxes. It is a fairly simple thing.

We have, of course, in this case, as we do in many, a pretty strong difference of philosophy. We have on that side of the aisle people who prefer more government, more spending, more taxes. That is the philosophy. I understand that. I don't happen to agree with it.

Our party, on the other hand, is one that says we ought to slim down the Federal Government; we ought to move more and more government towards the States and the counties, leave more and more money in the hands of the people. That is the philosophy, a difference of philosophy. That is so often the basis of our disagreement on many things. I understand that. It is perfectly legitimate. But if you want more government, that is fine. If you want the Government to spend more money, that is fine. That is a philosophy, one that has, through the years, been on that side of the aisle. It is not really a surprise.

People say, of course, how is it going to affect me? Well, it affects us in very real ways:

Estate taxes: I have a lot of people who farm and ranch in Wyoming who are very concerned about that. Capital gains taxes: More and more people are investing their money. The capital gains tax needs to be changed. Insurance deductions for health insurance, that people pay their own premiums, to be deducted, that is a reasonable thing to do. The marriage penalty, we have talked about that—a very reasonable thing to do.

So we often get lost in the details when we say, as taxpayers, what does this do for us? I think it does a great deal for us. I think we should move forward. I am sorry we don't have agreement with the gentleman at the other end of Pennsylvania Avenue, but that ought not to keep us from doing what we think is right, and that is the thing we ought to do.

I urge that my associates do the right thing.

Mr. ROTH. Mr. President, I yield 10 minutes to the distinguished Senator from Arizona.

Mr. McCAIN. Mr. President, the American people want us to save Social Security. They want us to fix Medicare. They want us to give them more control over their children's education. They want us to cut back the size of the bloated Federal bureaucracy and pay down the debt. Those are the clearly stated priorities of the people we represent, those whose interests we are pledged to protect.

The Congress has tried to do something about the impending insolvency of the Social Security system, but we have been blocked by the President's disingenuous statements about the kind of lockbox legislation he could support. The President rejected the recommendations of the bipartisan commission that was created to provide a basis for preventing the bankruptcy of Medicare. The President has put politics ahead of the needs of the people, but, unfortunately, so have we.

The American people want, need, and deserve tax relief. They want us to reform and simplify our overly burdensome 44,000-page Tax Code that unfairly benefits special interests and overtaxes American families.

Yet, here we are debating the merits, or not, of an $800 billion tax relief bill that we know for a fact the President will veto.

Mr. President, let's be honest and acknowledge what's going on here. This bill is going nowhere. When it comes back to the Congress after the President's vetoes it, we should be prepared to set aside pure politics, and instead focus on producing results that benefit the American people.

Mr. President, there are some very good provisions in this bill that help American taxpayers keep more of their hard-earned money. But most of these very important tax provisions for average Americans are put off for the future, while many of the perks for big business and special interests take effect immediately. This bill delays meaningful tax relief for the average taxpayer until 2001 or later, yet it complicates the tax system with a raft of new and renewed exemptions, exceptions, and carve-outs for special interests that go into effect immediately.

Just under $6 billion of the entire $792 billion in tax relief in this bill is effective next year. Just 77 of the 180 provisions in this bill provide any tax relief at all in the year 2000. More than 80 percent of the tax cuts are delayed until 2005 or later. And after phasing in the most important provisions over a 10-year period, the whole tax cut package sunsets after 2009, when we would presumably revert to the burdensome and overly complex tax system with which we are struggling today.

I firmly believe we should repeal, once and for all, the disgraceful tax penalty that punishes couples who want to get married. This bill does provide relief from the onerous marriage penalty, but these important provisions do not even begin to take effect until 2001 and then they are phased in over a period of four or five years.

Income tax rate reductions don't start to phase in until 2001, and then only the lowest bracket sees a half-percent rate cut, while other rate cuts are delayed until 2005. In fact, according to an informal estimate I was given, an American family making $65,000 per year would get just $47 in tax cuts based on the income tax rate reductions in this bill in 2002.

We should also slash the death tax that prevents a father or a mother from leaving the hard-earned fruits of their labor to their children. There is absolutely no relief from the onerous death taxes in 2000. Estate tax reductions would be phased-in over a 9-year period until completely eliminated in 2009, but then this entire tax cut package would terminate and the death tax would be fully reinstated.

At the same time, poultry farmers get an immediate tax break, totaling $30 million over 10 years, to convert chicken manure into electricity. Small seaplane operators don't have to collect tickets taxes, starting immediately, giving them a break of $11 million. Manufacturers of fishing tackle boxes get an immediate excise tax break, so that they can more competitively price their tackle boxes to compete with the tool box industry. And the people who make and sell arrows for hunting fish and game get an immediate cut in their taxes.

Why are we giving a big break to chicken farmers when American families get not a dime in tax relief? Why don't people flying on seaplanes have to pay ticket taxes like people flying on other commuter planes? What compelling reason is there to give fishing tackle box manufacturers a tax break,

while family-owned businesses get no relief from the confiscatory death taxes for quite some time?

Many of the other provisions in this bill that provide tax relief for education, health care, and other issues important to American families are implemented gradually or simply delayed for several years. Likewise, some of the provisions that benefit small businesses and tax-exempt organizations do not take effect for a number of years. Yet most of the provisions that give even more tax breaks to the oil and gas industry, financial services companies, high tech industry, insurance companies, and defense industry take effect early. The priorities in this bill are seriously skewed in the wrong direction.

In addition, this bill does nothing to fundamentally reform our unfair and overly complex tax code. For years, and this bill is no exception, we have compounded the tax code's complexity and put tax loopholes for special interests ahead of tax relief for working families. The result is a tax code that is a bewildering 44,000 page catalogue of favors for a privileged few and a chamber of horrors for the rest of America—except perhaps the accountants and lawyers.

The special interest set-asides and carve-outs in this bill merely exacerbate the complexity of the tax code. This bill adds new loopholes, new schemes, new ideas to keep lawyers and accountants busy.

It is not right to pay back special interests ahead of American families. It is not fair to give more tax incentives and exemptions and cuts to big business, when individual taxpayers get no relief.

If this bill had any chance of becoming law, perhaps it would have been prioritized somewhat differently.

Mr. President, this tax bill is based on the premise that we will have nearly $3 trillion in the federal budget surplus over the next 10 years. Let's look at the priorities for those surplus funds.

Our first priority must be to lock up the Social Security Trust Funds to prevent Presidential or Congressional raids on workers' retirement funds to pay for so-called ''emergency'' spending or new big government programs. Most Americans don't share the view that dubious pork-barrel projects, such as millions of dollars in assistance to reindeer ranchers and maple sugar producers, should be treated as emergencies to be paid for with Social Security, but that is exactly what Congress did earlier this year.

That leaves nearly $1 trillion in non-Social Security revenue surpluses. I believe a healthy portion of the projected non-Social Security surplus should be returned to the American people in the form of tax cuts. I also believe we have a responsibility to balance the need for tax relief with other pressing national priorities.

After locking up the Social Security surpluses, I would dedicate 62 percent of the remaining $1 trillion in non-Social Security surplus revenues, or about $620 billion, to shore up the Social Security Trust Funds, extending the solvency of the Social Security system until at least the middle of the next century. The President promised to save Social Security, but he failed to include this proposal anywhere in his budget submission. In fact, he has since proposed or supported spending billions of dollars from the surplus on other government programs, depleting the funds needed to ensure retirement benefits are paid as promised.

I would also reserve 10 percent of the non-Social Security surplus to protect the Medicare system, and use 5 percent to begin paying down our $5.6 trillion national debt.

With the remaining $230 billion in surplus revenues, plus about $300 billion raised by closing inequitable corporate tax loopholes and ending unnecessary spending subsidies, I believe we could provide meaningful tax relief that benefits Americans and fuels the economy.

The bill before the Senate includes provisions that are similar to some of the proposals I would include in such a plan, which are targeted toward lower- and middle-income Americans, family farmers, small businessmen and women, and families.

I believe we should expand the 15% tax bracket to allow 17 million Americans to pay taxes at the lowest rate, and this bill reflects a similar focus. The bill also increases the income threshold for tax-deferred contributions to IRAs, although delayed, and very gradually increases the amount that employees can contribute each year to employer-sponsored retirement plans. We should make these increases effective immediately to encourage more Americans to save now for their retirement. And this bill takes several steps to provide meaningful tax relief for American families by at least starting to eliminate the onerous marriage penalty and provide relief from confiscatory estate taxes.

What the bill before the Senate does not do is provide much-needed incentives for saving. Restoring to every American the tax exemption for the first $200 in interest and dividend income would go a long way toward reversing the abysmal savings rate in this country.

Most important, the bill does not eliminate immediately the Social Security earnings test. This tax unfairly penalizes senior citizens who choose to, or in many cases, have to work by taking away $1 of their Social Security benefits for every $3 they earn. There is no justifiable reason to force seniors with decades of knowledge and expertise out of the workforce by imposing such a punitive tax. And in our modern society, when many seniors have to work to survive, we should not keep this Depression-era relic in law.

This is the kind of package that I believe could form the basis of a tax cut bill that properly balances national priorities and provides fair tax relief to average Americans and their families without further complicating our tax code. It would be a better step in the right direction toward economically sound and equitable tax relief and provide incentives to undertake real reform of our tax system.

Mr. President, I will vote for the Taxpayer Refund and Relief Act because I believe it reflects a commitment to provide relief from a system that taxes your salary, your investments, your property, your expenses, your marriage, and your death. We must send a message to the American people and to the President that we must repeal the onerous marriage penalty and estate taxes that burden America's families.

This bill is not acceptable to me. Special interests get the biggest breaks, and they get them right away. All the American families get are the leftovers. My problem with this bill is not with the size of the tax cuts, but who benefits.

However, its passage and subsequent veto represent our only hope for meaningful tax relief for those working families who need it most. If this bill were to die today, so would the possibility of achieving meaningful tax relief this year. By passing this bill and forcing the President to address tax issues, I believe we hold open the possibility of entering into negotiations between the Administration and the Congress to provide meaningful tax relief for the benefit of all Americans.

The sad reality is that this bill will not give a single American family even one extra dollar in their pockets, because it will be vetoed as soon as it arrives at the White House. But after this bill is vetoed by the President, our responsibility to the people we represent must be to work to address their priorities. We must save Social Security, fix the Medicare system, and return to the people more control over their lives and the lives of their children and families.

At the same time, we can start to work on crafting a meaningful tax relief bill that truly benefits the American people—a tax bill that even President Clinton could not refuse to sign into law. That is what the American people want and need.

Mr. MOYNIHAN. Mr. President, I am happy to yield 5 minutes to my learned friend from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair, and my good friend from New York.

This bill before us is unfair and it is unwise. It is unwise because the projected surplus that the bill uses for the tax cut is based on our abiding by spending limits that have already been breached and which would require huge cuts that we cannot make and should not make in veterans' programs, education programs, criminal law enforcement, and other important programs for the people of this Nation.

If the surplus to this extent materializes, in fact we should then reduce the national debt that has been built up, particularly over the last 20 years. That would be the greatest gift of all that we could make for the American people, the reduction of that debt, because that would be a reduction in the interest rates which people pay on their mortgages and cars and credit cards, and that would truly be a contribution to the well-being of our constituents.

The American people also sense that the tax program before us is unfair and not just unwise; they know—this has not apparently been contested—that 40 percent goes to the upper 1 percent of our people. The highest income 1 percent get over 40 percent of the tax benefits in this bill. More than 80 percent of the tax benefits in this bill go to the upper 20 percent of our people.

It is, in fact, true that we are dealing with the people's money. It has frequently been said here that what we are talking about is whether or not to give back to at least some of the people their own money. It is true. This money—this surplus—belongs to the American people. But the economy belongs to the American people as well. The Social Security system belongs to the American people as well. The Medicare system belongs to the American people as well. The Head Start program belongs to the American people. Veteran hospitals belong to the American people.

It is important that we consider what to do with a projected surplus—that we deal with this surplus as what it is, the people's money, but look at all of what we do here as hopefully carrying out the people's business.

This bill takes us down the wrong road—the road back toward the deficit ditch that we are finally beginning to climb out of. It has taken us fewer years than expected. But, nonetheless, it has taken us about 6 years to get out of the ditch which we got ourselves into, particularly during the decade of the 1980s.

Now that we are finally out of that ditch, we should stay out of that ditch. We should use any real surplus—not projected surplus but any real surplus—to protect Social Security and Medicare, and have a prescription program, and to do what is vitally necessary to invest in our people, particularly through their education, but then to pay down that national debt and to give back to the people what they truly want, which is a sound economy on a long-term basis and low interest rates on a long-term basis. That is what would be guaranteed if, in fact, we apply any real surplus beyond Social Security and Medicare prescription needs, beyond the investment in education, if we take that surplus, if it is real, and pay down the national debt.

Instead, this bill takes us down a different road, a road which will deliver a huge tax cut mainly for those among us who need it the least and who are, for the most part, not even asking us for it. This bill represents an imprudent and unfair step, and we should not take it.

I yield the floor.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, may I say to my friend from Michigan that, as he well knows, we are in the second year of a budget surplus, the first such sequence since the 1950s. Let's not spoil it.

Mr. President, I yield the floor.

Mr. ROTH. Mr. President, I yield 10 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank my friend, the chairman.

Mr. President, fellow Senators, I want to talk for 10 minutes about why this is a good deal for the American people and why it is high time we set in motion a series of tax cuts which will give them back the money they are paying into the Government that we don't need.

First of all, everybody talks about the fact that tax reduction comes in over a decade, and it comes in 1 year at a time. Almost everybody who is critical of that says at the same time they want to save Social Security.

The truth of the matter is there is $3.3 trillion in accumulated surpluses over the next decade. In order to make sure you are protecting Social Security, each and every year of that 10 years, a substantial portion of that money belongs to the Social Security trust fund. So you can't have tax cuts that use up the Social Security trust fund. Anybody who says we are is ignoring the facts.

The reason we have to have a phased in tax cut is because we are saving every single penny that belongs to Social Security for Social Security. Then we come along and say, let's have a tax cut, and let's phase it in each and every year.

People can come to the floor and be critical of how slow it is and how long it takes to get the marriage tax penalty totally eliminated. But the truth of the matter is when you pass this tax bill tonight, and if the President were to sign it, you have put into law a change in the Tax Code which will get rid of the marriage tax penalty and many of the other onerous provisions in this law. Still, after you have done that, even though some of our best money crunchers in America have it wrong, there is $505 billion—not zero, as some people have said, $505 billion—off a freeze which you can spend where you want over the next decade, be it for defense, be it for discretionary programs such as education, or you can use $90 billion to $100 billion of it, or as much as you want, to make sure you fix Medicare, if that is your goal.

So for starters, there are so many people out there with wrong numbers and attacks on this proposal, who have the wrong facts, that I merely want to answer that part. We take care of Social Security regardless of what the President of the United States says. There is money in this budget for Medicare reform, if you choose to do it. There is money in this budget plan to pay for defense and to pay for education, and other high priority items, and to take care of the needs of this country.

What we set out to do was to say we shouldn't keep more than we need, and we shouldn't set billions of dollars around in places up here in the National Government assuming that one way or another it will be there when it is time to give a tax cut.

I submit that if you believe that you really do believe in the tooth fairy because, as a matter of fact, if you set that much money around up here and it is not used, it will be spent.

We ask the question: Do you want to use this surplus to grow the pocketbooks of Americans, or do you want to increase their savings accounts, or would you like to spend it? That is the issue before us today. It is a blessing that we have this surplus.

First, we should set aside enough for Social Security. We have done that. The bill then provides for our taxpayers to get some relief. It preserves and expands the child care credit. It protects various education credits, foster care tax credit, the alternative minimum tax—a fancy name. But what it means is that the way the Tax Code is written today, we give average Americans, middle-income Americans, credits and the like in the Tax Code. Then we take it away under the alternative minimum tax—like we give you a benefit and we take it away. We call it an alternative minimum tax, as if you are so rich you shouldn't get these credits.

Do you know that if we do not pass this tax bill, 7 out of 10 American taxpayers will lose some of their credits to the AMT by the year 2008, just about the time that we wiped out the AMT?

Please, Mr. President, sign this bill. The bill provides tax relief for health care, long-term care, and has small business incentives. It is a bill that is good for farmers, for working men and women, and families. Overall, it is a very good bill.

I also say, Mr. President, please sign this bill. The final tax plan is an excellent tax plan that moves toward slower, flatter, and simpler tax and moves toward taxing income that is consumed, not income that is saved, earned, and invested.

On the business side, it moves closer to allowing business to deduct the cost of investments in the year they are made, thereby making them more competitive.

This bill overall moves toward tax equity so everyone will get a break for health care regardless of where they work—a big company, small company, or a ma-and-pa one-stop shop. People who need health coverage say: Mr. President, please sign this bill.

The bill focuses on generational equity. There are child care credits and long-term credits for the elderly. The President asks, be sure to take care of our senior citizens. We have taken care of them. Senior citizens, we are taking care of your children and your grandchildren who are interested in being helped because they pay more taxes than they should. On behalf of the seniors in the country, and their daughters, sons, and grandchildren, Mr. President, sign this bill.

The bill takes the best part of the House and Senate bill and attempts to make it law. Broad-based tax reduction is fair. It cuts the tax rate in the lowest bracket first. Lowering of the 15-percent bracket happens before any other brackets are lowered. This sequencing recognizes that 98 million Americans are the people most urgently in need of a tax cut. Lowering the 15 percent to 14 percent is a 7-percent cut. Widening the lower bracket does two important things: It returns millions of Americans to the lowest brackets, fighting back ''bracket creep.'' In my own State of New Mexico, 151,000 New Mexicans will be returned to the lowest bracket; another 83,000 will see taxes cut.

Talking about the marriage penalty for a minute, which everybody has spoken to—I won't be as eloquent as some—it is absolutely preposterous that the United States of America would punish by way of taxation a man and a woman who are married and both working, as opposed to a man and woman who are single. The marriage penalty is the wrong thing for America today. It was the wrong thing when we passed it. We ought to get rid of it.

In behalf of millions of married couples who are begging Congress to be fair with them and get rid of this penalty on their marriage, please sign this tax bill.

Because of the progressive rate structure in our tax code, Americans in the 28, 31, 36, and 39.6 tax brackets will all see their taxes cut.

The marriage penalty relief in this bill is overdue and well done. There is roughly $117 billion in marriage penalty relief. Fully fifty percent of the bills resources go to a broad-based and marriage-penalty tax relief.

The bill also phases in a doubling of the standard deduction to finally eliminate the marriage penalty. In addition to lowering federal income taxes by eliminating the marriage penalty for 567,170 New Mexico families, it will also save New Mexicans $72.4 million in New Mexico income taxes as well! Getting married would no longer be a taxable event.

The bill increases the child care credit. It increases the credit for families with AGI incomes under $30,000. By 2006, the credit will be 40 percent. This means that 29,042 New Mexican families will get more help with their child care expenses and this is a real helping hand because child care can cost as much as $3,133 to $5,200 a year per child. These 29,042 families with child care expenses say, ''Mr. President, please sign this bill.''

This bill improves tax treatment for education 7 ways. The 331,815 public school students in New Mexico would be benefitted if this bill were to become law, so I say, ''Mr. President, please sign this bill.''

This bill provides a deduction for prescription drug insurance, provides an extra exemption for the caretaker of elderly and infirm parents and grandparents, and provides a deduction for long term care insurance.

43 percent of all Americans will need long term care at some point in their lives and 25 percent of all families are caring for an elderly relative today. It is an emotional and financial commitment. The long term care deduction can help make it less of a financial burden. For the 19 million Americans expected to need long term care, I say, ''Mr. President, please, please sign this bill.''

This bill cuts taxes by $43.9 billion by providing tax relief to families facing health care costs.

The bill expands the deduction for health insurance so that everyone is treated the same regardless of whether they work for a big corporation with a fancy health insurance benefit plan, or whether they work for a small business that does not provided health insurance. This provision could help 43 million uninsured plus the 10.2 million who have access to health insurance but decline to participate because of the cost and it should help the 1.4 million children of self-employed who lack health insurance.

In New Mexico this provision could have a big impact and make a big difference. We have 340,000 uninsured New Mexicans who belong to families where some in the family works.

On behalf of all these people with no health insurance or with unaffordable health insurance, I ask, ''Mr. President, please sign this bill.''

I have talked about why this bill is good for the American family. But there are two provisions that are good for the economy.

Lowering the capital gains rate is the best economic policy and I am pleased that this bill lowers the top rate to 18 percent. I am also pleased that the bill increases expensing from $19,000 to $30,000.

This bill also phases in a reduction of rates and then repeals the estate tax. The estate tax is perceived as one of the most confiscatory taxes of all time and it is one that disrupts small business and farms. I am pleased that the bill gets rid of the death tax. Dying should not be a taxable event.

For all of the constituents who have written me about the unfairness of the death tax I say, ''Mr. President, please sign this bill.''

The bill increases the amount that can be contributed for all IRAs. It is phased in so that eventually $5,000 a year could be contributed. The bill also increases eligibility for those who can participate in Roth IRAs and includes ''catch-up'' contribution limits for people aged 50 and over.

For the 15 million people who would be helped by these retirement security provisions, I say, ''Mr. President, please sign this bill.''

The bill also does some things that really need doing. First it extends the R&E credit for five years. It also includes some desperately needed tax relief for the oil and gas industry.

I am very pleased with this bill. It is fair, it is the right thing to do and it should be done before the money get spent on more government.

I close today by saying I have been working on budgets for a long time. I have heard criticisms of budgets that we produced, and we have criticized budgets that the opposite side produced.

The criticism of this tax cut, phased in over 10 years, is beyond anything I could ever have imagined. With surpluses of this size, for the White House and those who oppose it to be inventing numbers and accusations that are totally unfounded is something I never expected. As a matter of fact, there is even concern about the moderate economic assumptions in this budget. We grew at 6 percent the year before last, 4½ percent last year, over 2 percent this year, and we plan the next decade to grow at 2 to 2.3 percent, a very modest growth. We even plan two recessions in there, and we still get these surpluses.

Frankly, I think they are fair projections. At least they are fair enough to make sure we don't risk them being spent. All we are saying is, over the next decade set this much aside, just don't collect it. We are not going to cut taxes. We are just not going to collect it. It will stay with the American people. It is going to be phased in.

Fellow Americans, it will take a while for some of them, but maybe we should ask the question for the other side and the White House who are critical that it takes too long for them to come in, When will their taxes come in? When will their tax reductions come? Perhaps never.

Mr. MOYNIHAN. On behalf of the distinguished Republican chairman and manager of the bill, I yield 10 minutes to the Senator from Florida.

Mr. MACK. I thank my distinguished colleague for yielding me that time.

Mr. President, the vote on our tax relief bill is nothing less than a vote of confidence, reaffirmation of our belief in the wisdom of the American people and of our faith in the capitalist system. It all boils down to one basic, fundamental question: who has first claim on the income of Americans—does it belong to the government or to the individual families who create the income through the sweat of their brows and the genius of their (brains?)

The President and the vast majority of our friends on the other side of the aisle act like the money belongs to the

government. They reject our tax relief bill as ''too big,'' as if taxpayers earn income at the sufferance of the government. Under this view, Uncle Sam does not live under a budget he sets the budget for every American family, which must be content with the table scraps after the enormous appetite for spending in Washington has been satiated.

Two and one-quarter centuries ago, the rejection of this arrogant, government-comes-first theory of taxation was the impetus for the founding of our Nation. Our political forefathers would not stand for the notion that Americans were mere pawns of a distant court, which could raid their purses and pocketbooks at any whim. America was founded not on concepts that divide peoples, such as race, or geography, but on the American Idea that brings us all together: the inalienable right to liberty.

From our Nation's very conception, this idea has served as a beacon for people of all creeds and colors seeking refuge from he heavy hand of meddlesome government. In America, the government serves the people, and must necessarily trust the people to do what is right by and for themselves. The government should not try to do it all. We provide a safety net for the least fortunate, those who cannot help themselves, but everyone else is trusted with the responsibility of providing for their own financial security.

And by all accounts, this combination of liberty for our citizens and restraint on the part of the public sector has, in fact, succeeded. By the end of the 19th Century, America was in the forefront of the Industrial Revolution. By the mid-20th Century, despite the MIRE of a worldwide depression, the United States was able to mobilize its industries and its men to rout one own of the twin evils of tyranny in the Second World War. And by the close of this Century, we succeeded in defeating the other Soviet Communism, by the force of our will, the commitment of a strong Commander-in-Chief, Ronald Reagan, and the power of our competing idea of liberty. Our Nation is President Reagan's shining city on a hill, the economic envy of the world and the destination of all who yearn for freedom.

But this President and his supporters in the Congress just don't get it. The tax burden on our citizens is at an all time, peacetime high—20.6 percent of the economy. Meanwhile, the federal government will be overcharging the taxpayers by more than $3 trillion over the next 10 years. A Nation that trusted its people, that protected their liberty, would not flinch from the right thing to do: cut taxes so that our families can enjoy the fruits of their labors, instead of greedy Washington programs. This tax bill does just that, leaving $792 billion in the hands of the people to whom it belongs.

This tax cut is a measured, balanced response to the surpluses that will be flowing into the capital. It leaves 75% of the surpluses to be used to retire debt, and finance important priorities like Medicare and national defense. Every penny in the Social Security trust fund is left in a lockbox to be used to shore up the retirement security of our citizens. And the tax cuts are phased in over time, so the bulk of the cuts are in the last 3 years of the coming decade, when surpluses would otherwise skyrocket and tempt a government spending spree.

But voices are raised in opposition to the tax cut. It is said that the government cannot afford a tax cut of this size. But that is exactly backwards: our taxpayers cannot afford to continue to shoulder a record-high tax burden. Back in 1993, without the vote of a single Republican member of Congress, President Clinton pushed through a tax increase totaling $241 billion over 5 years. The rationale for this tax increase was the need to reduce our budget deficit. Well, the budget deficit is gone and we now have surpluses as far as the eye can see. The on-budget, non-Social Security surpluses will exceed $1 trillion over the next decade. We propose to let the American people keep $792 billion of these overpayments. Is that too much?

Not when you consider that the 5-year tax cut of $156 billion pales in comparison to the Clinton tax hike, imposed on what was then a much smaller economy. According to my Joint Economic Committee staff, the 1993 Clinton tax increases will take some $900 billion from the American people over the next decade. Our tax cut of $792 billion does not even offset the lingering ill effects of that tax hike. Are we being too generous? Or have the taxpayers been too generous for too long?

It is hard to find fault with the specifics of our tax cut package. Is it right that we should double-tax business investments, so our innovators lack the resources for research and development? Is it wrong to extend the R&D tax credit, to liberate our scientists and engineers? Is it right that people should pay higher taxes just because they are married? Do we want people to build their own nest eggs for retirement security, or do we want to force everyone to rely exclusively on the Social Security system?

This tax relief package helps everyone. We make health and long-term care insurance fully deductible, and allow a dependent deduction for elderly family members. Education is more affordable through enhanced savings vehicles—IRAs and pre-paid tuition plans. Tax rates are lowered across-the-board. We eliminate the marriage penalty for taxpayers in the lowest tax bracket and repeal the Alternative Minimum Tax for individuals.

Most significant is what this tax relief does for our future. As we enter the 21st Century, America needs a tax policy that will facilitate, not smother, innovation and new technology. Our tax relief bill improves the environment for pioneers in new products and services. The R&D tax credit is extended for 5 years—the longest extension ever, so business can count on it. The R&D credit will continue to fuel innovation in new technologies, leading to health and safety breakthroughs, and enriching our quality of life.

Capital gains tax rates are also cut to their lowest levels in 58 years. Lower taxes on capital gains will help our entrepreneurs find the seed capital they need to launch new businesses, create new jobs and provide new products and services. And capital gains are indexed, eliminating the tax on phantom gains due to inflation—ending the government raid on the savings of long-term investors, particularly retirees.

We also eliminate the most unfair tax of all, the estate and gift tax. No longer will business owners be discouraged from reinvesting their hard-earned profits because the specter of the federal death tax is hovering, waiting to swoop down and scoop up 55 percent of the increased value of the business. By eliminating the death tax, cutting the capital gains tax, and expanding IRAs, some of the largest barriers to capital formation are pulled down, and the result should be a rising tide of investment that carries our economy through the coming Century of Knowledge.

I want to commend Chairman ROTH, and all of the conferees, for producing a balanced, thorough, and fair tax cut that benefits all taxpayers. High taxes are an infringement on the liberty of our families, who should not be struggling to make ends meet while their Federal servants hoard the wealth our families have created. When the question comes down to whether we trust the Federal Government or the family to use money wisely, I choose the family every time. I urge my colleagues to do the same, to side with the people, not the bureaucracy, and vote for the conference report.

I yield the floor.

Mr. STEVENS. Mr. President, I am pleased that the Conference Report of the Taxpayer Refund Act of 1999 contains tow amendments I authored to extend the same tax benefits that farmers have to fishermen. The original version of the Taxpayers Refund Act of 1999 included provisions to create farm and ranch risk management (FARRM) accounts to help farmers and ranchers through down times and to coordinate income averaging with the alternative minimum tax. The FARRM accounts would be used to let farmers and ranchers set aside up to 20 percent of their income on a tax deferred basis. The money could be held for up to five years, then it would have to be withdrawn and taxed at that time. Interest would be taxed in the year that it is earned.

Encouraging farmers and ranchers to set some money aside for downturns in

their markets makes sense. However, I felt this provision should have been expanded to include fishermen and I offered an amendment that would do just that.

I also authored an amendment to expand income averaging to include fishermen and to coordinate averaged income with the AMT I am proud to say that both measures had broad bi-partisan support, and I want to thank those who cosponsored my amendments.

Allowing fishermen to elect income averaging and coordinating that election with the AMT is important to the overall issue of tax fairness under the tax code. Under my amendment, a fishermen electing to average his or her income would owe AMT only to the extent he or she would have owed alternative minimum tax had averaging not been elected.

In previous years Congress has responded to fishing disasters with Federal assistance under the Magnuson-Stevens Act. We do the same for farmers when crop disasters occur. Allowing fishermen, like farmers, to establish risk management accounts, is a responsible way to let them help themselves and preserve the proud self-reliance that marks their industry.

Fishermen are the farmers of the sea. Fishermen and farmers share seasonal cyclical harvest levels and fishermen should not be left behind in the tax code because of this. While these amendments are modest steps toward equal treatment for our fishermen, they are an important part of ensuring the long-term sustainability of our fishing industry.

In addition to the provisions in this bill for America's fishermen, I, along with my colleague, Senator MURKOWSKI, included a measure to allow Eskimo whaling captains to deduct up to $7,500 dollars of their expenses incurred during whaling hunts. This provision allows whaling captains to continue the tradition of sharing whale meat with Alaska villages.

It is the custom that the captain of a whale hunt make all provisions for the meals, wages and equipment costs associated with the hunt. In return, the captain is repaid in whale meat and muktuk, a consumable part of a whale. The captain is then required, by tradition, to donate a substantial portion of the whale to his village. This provision will allow the captains to deduct for the costs involved since they do not recoup the actual costs from their share of the whale meat. This provision is important to the heritage and traditions of the Alaskan Eskimos, and I am pleased that it was included in this bill.

This tax refund plan is just that—a tax refund for every tax paying American. Every American would see a reduction in their Federal income taxes in the form of a refund. When you are overcharged for an item in a store, you march back in and demand the difference between the actual price and the amount you were charged. The American taxpayers cannot march up the front steps of the Treasury demanding a refund of their overpayments to Uncle Sam. We in Congress must do that for them.

Some would not like to see this measure pass because they feel it does not reduce our national debt. However, this bill contains provisions to ensure that the goal of debt reduction is met. The debt triggers included in this package would halt any future refund measures under this bill until our debt reduction goals are achieved. This is a good balance because it allows us to send money back to the American people while reducing our debt load. Under this bill, one cannot happen without the other.

I urge my colleagues to support this meausre and I thank the leadership of chairman ROTH and the members of the Finance Committee in organizing and authoring this sweeping tax refund bill.

Mr. GORTON. Mr. President, I rise to express disappointment in the way this tax legislation takes a piecemeal approach toward electricity issues. It deals with only one of the three major provisions that need revision if this industry is going to meet the requirements of all citizens and ratepayers in an era of emerging competition.

The electricity industry is in transition. Wholesale competition between utilities and suppliers is becoming a vibrant and competitive market, although there is still work to be done to make this market work more effectively. Consumers have benefited from lower prices and increased supply although the benefits have been invisible to many retail consumers. And nearly half of the states have moved to develop their retail electricity markets to give more consumers the chance to shop for their power provider.

But the federal tax provisions that affect this industry were written for a monopoly era. This has the real effect of keeping many utilities from participating in competitive markets due to the penalties they would incur solely because of outdated tax provisions. If these utilities are somehow forced to respond to competition without the needed changes, rates would rise only because of laws written for a time before competition was imagined.

This bill addresses only one of these tax problems, the taxation of nuclear plant decommissioning funds. This benefits the investor-owned utilities interested in buying or selling nuclear plants. Two other areas need to be addressed to prevent other consumers from being penalized: the private use restrictions on municipal and public power systems, and the restrictions on electric cooperatives when costs or revenues are incurred during the transition to more extensive competition.

In my state we have a healthy mix of suppliers of electricity: investor-owned utilities, cooperatives, municipalities and public utility districts. These three major sectors of the industry should have their tax problems addressed at the same time.

I hope Chairman ROTH and Chairman MURKOWSKI will keep their commitment to hold a hearing in the tax-writing committee in September, with an eye toward resolving these tax issues as expeditiously as possible.

Mr. DASCHLE. Mr. President, as we approach final passage of the reconciliation conference report, I would like to put what we are about to do in proper perspective. Although some have characterized this process as politics as usual or political posturing, I do not see it that way. What the House has done, and the Senate is about to do, is serious business, not a political game.

We are about to vote on legislation that affects this nation's economic and fiscal health and well-being. It will affect the live of millions of Americans for decades to come. The stakes could not be higher.

And when you boil away all the rhetoric heard during this debate, what you really have is a tale of two paradigms. The Republican plan is an old and familiar one. Republicans would take us back to 1981 and the failed economic policies of that era. These policies can best be characterized as wishful thinking that led to a fiscal disaster.

The Democratic position is that we should follow the model Democrats put in place in 1993 and continue to pursue to this day. Our plan turned record deficits into record surpluses and halted the skyrocketing growth of federal debt. At the same time, we have experienced the longest peacetime economic expansion in our history. The Democratic plan is one of fiscal responsibility and economic prosperity.

In addition to giving us the strongest economy in a generation, the politically difficult vote cast by Democrats nearly 9 years ago provided something else. It provided this Congress with an historic opportunity—sustained economic health and the possibility of actual budget surpluses.

The question facing this Congress at this time is, which road will we take—the fiscally responsible path or the fiscally dangerous one? Will we opt to build on our success or put our nation's fiscal health at risk yet again?

As I have listened to many of my colleagues on the other side of the aisle, I am struck by how familiar many of their arguments sound. I am hearing some of the same dangerous rhetoric and false rosy scenarios that I heard last decade.

And as I look at their bill, I see many of the same special interests disproportionately benefitting from their actions. Make no mistake about it. When it comes to irresponsible tax cuts tilted to the wealthy, the Senate bill was bad, and the conference bill is much worse. Let me cite a few examples.

Under the terms of the bill before us, the bottom 60 percent of taxpayers would receive an average tax cut of just $138. That's about 25 cents a day, not even enough for a cup of coffee. At the same time, Republicans feel it is appropriate to provide the top 1 percent of taxpayers, people with incomes over $300,000, an average tax cut of over

$46,000. A cup of coffee for most, $46,000 for a few.

To further highlight the skewed nature of this cut, people earning over $300,000 would receive more than 40 percent of the $792 billion in tax relief provided by this bill. Meanwhile, people making between $38,000 and $62,000, the heart of this country's middle class, would receive 10 percent of the tax cuts in this bill. Once again, much for a few, and little for many. It's hard to see how anyone could characterize this as fair.

While providing these huge tax cuts for a few, the Republicans opt to set aside nothing for prescription drugs for Medicare beneficiaries.

In order to generate the surpluses necessary to pay for their monstrous tax breaks, Republicans require drastic cuts in education, veterans' health, defense and agriculture. If our military were funded at the level requested by the President, the Republican budget would force across-the-board domestic discretionary cuts of 38 percent below their level today. If defense were fully funded and Republicans followed the plan laid out by Chairman DOMENICI, these cuts would grow to 50 percent.

A final consequence of Republican recklessness is that they would force $90 billion in cuts to Medicare, student loans, veterans' benefits and many other programs on top of cuts I just described. The budget rules are clear on this. If tax cuts are not budget-neutral, the law requires across-the-board cuts in many mandatory programs. The Republican plan would require $32 billion in Medicare cuts over the next 5 years. And starting in 2002, the Republican plan would eliminate the Commodity Credit Corporation, crop insurance, child support enforcement, and veterans' education benefits.

As I said earlier, we have this historic opportunity, and this is how the majority responds. They fail on at least three counts. First, Republicans would set out on an irresponsible fiscal policy. As history has painfully proven, their tax cuts would inevitably lead to bigger deficits and more debt.

Second, they are pursuing an irresponsible national policy. Their tax cuts would explode just as baby boomers retire, eating up scarce resources that will be needed if the government is to keep its commitments on Medicare and Social Security.

Third, as Republicans have known from the outset, engaging in this reckless and risky course will only produce one outcome—a Presidential veto. The President has been clear: he will veto this bill. And I am confident that the vote on final passage will show equally clearly that this veto will be sustained.

Instead of wasting Congress's and the American people's time with this vainglorious pursuit, we should be working together on a fiscally responsible plan that protects the entire Social Security surplus, strengthens and modernizes Medicare by extending its solvency and providing a prescription drug benefit, pays down the debt, provides targeted tax relief for working Americans, and invests some of the non-Social Security surplus in critical priorities such as defense, education, veterans' health, and agriculture.

The size of the projected surpluses are sufficient to permit all of this. Yet, the Republicans insist on pursuing a course that neglects all but the tax cuts and is certain to produce a veto.

We have seen this course before. On juvenile justice, on the Patients' Bill of Rights, on gun control, on their overall budget plan, and on this bill. Time and again the Republican Congress has opted to follow a path outlined by ideological extremists. A path that focuses attention on special interests instead of the nation's interests. A path that wastes precious time and fails the American people when it comes to truly addressing their concerns.

When we return from the August recess, this Congress will have about 30 working days until our target adjournment date in October. I hope that when we come back in September, we can focus our limited time on the people's business. I ask that my colleagues reject this bill today, and begin that process immediately.

Mr. CHAFEE. Mr. President, the Taxpayer Refund and Relief Act contains many provisions which I support, as well as some which I would not vote for if considered on their own merits.

Let me just highlight some of the more commendable provisions in the bill which I hope will be included in any final tax legislation the President may sign:

I am pleased the bill includes reforms to the Alternative Minimum Tax (AMT). This tax was never intended to apply to families, nor to be triggered by the number of exemptions they might claim.

In the health care area, this bill includes some important changes. First, it provides a health insurance deduction to individuals whose employers provide no subsidy, regardless of whether or not the individual itemizes. In addition to this deduction, the bill includes a similar deduction for the purchase of long-term care insurance that will help aging Americans pay for the care they need.

This bill includes a number of provisions which would strengthen retirement security, both by encouraging more private savings and by reforming and simplifying our pension laws. These reforms would eliminate many of the administrative burdens which discourage businesses from offering their employees pensions, and would also provide for higher contribution limits.

The bill includes a repeal of the 4.3 cent per gallon diesel fuel excise tax which railroads (including Amtrak) and inland barge operators have been required to pay toward deficit reduction. This change would enable these modes of transportation to compete more effectively by reducing their costs.

By making the Dependent Care Tax Credit available to more families, this bill would help to make child care affordable for more families. In addition, the bill includes a provision to extend the adoption tax credit and to strengthen the credit for the adoption of special needs children.

The bill proposes to extend the Work Opportunity Tax Credit, a program I have long championed, which encourages employers to hire and train disadvantaged and unskilled workers.

The marriage penalty relief provisions in the bill are aimed at moderate income families and those eligible for the Earned Income Tax Credit.

The bill also includes provisions which will improve the deductibility of student loan interest, and which will help families save for college.

The bill includes an expansion in the conservation easement rules to encourage more Americans to donate land for the preservation of open spaces.

The bill also contains a deduction to encourage the restoration of historic residential properties. I would have preferred that the credit, as included in the Senate bill, had prevailed rather than the deduction, but this is a good start.

Importantly, some of the income tax rate reductions contained in the bill are made contingent upon progress toward debt retirement. Failing such progress, up to $200 billion of tax cuts would not take place.

While I will vote for this measure to keep the process moving toward an expected presidential veto and final budget negotiations with the White House, I would much prefer a smaller bill, such as the $500 billion bipartisan compromise plan which I—along with Senators BREAUX, JEFFORDS and KERREY—pressed during Finance Committee and floor deliberations on the tax bill.

Because of the uncertainty of projecting budget surpluses over a ten-year period, and given all of the other priorities we face, I am simply not comfortable with an $800 billion tax cut. In my judgment, cutting taxes is only one of several important priorities toward which our budget surplus should be directed. Others include reducing the national debt; modernizing Medicare and adding a prescription drug benefit; strengthening Social Security for the long-term; and, ensuring adequate funding on an annual basis for important discretionary programs.

Clearly, there are provisions I had trouble with.

The bill includes a provision to encourage the establishment of Individual Education Savings Accounts to subsidize the cost of private school tuition for children in grades K–12.

This bill would redirect revenues from the Leaking Underground Storage Tank Fund to the Superfund program. As Chairman of the Environment and Public Works Committee, I strongly opposed inclusion of this provision.

Reducing the capital gains tax rate from 20 to 18 percent for individuals, as this bill proposes, seems unnecessary because this rate reduction was scheduled to happen in the near future.

In sum, Mr. President, I am hopeful that negotiations between Congress and the Administration will begin in earnest after the President vetoes this bill in September. In my judgment, in addition to providing needed tax relief, those negotiations should also produce other critical benefits, including provisions to reduce our national debt, strengthen Medicare, and to fund discretionary programs.

Mr. DODD. Mr. President, I rise this afternoon to regrettably oppose the conference report to the Year 2000 Budget Reconciliation legislation.

With this conference report, the majority has succeeded in making a bad bill worse. Rather than using this conference to come together and attempt to develop a reasonable package, all of the objectionable features of the Senate-passed bill have been exaggerated, rather than moderated.

First, the conference report further skews the benefits of its tax cuts towards those who need them least, and away from working families. We now have before us a conference report that includes a 1 percent across-the-board tax cut for all income tax brackets. We are led to believe that this provision is the center-piece of a package that constitutes broad-based tax relief. However, upon closer inspection, this clearly is not the case. Under this proposal, the bottom 60 percent of taxpayers receive only 7.5 percent of the total tax cut benefits, while the top 10 percent of income earners receive nearly 70 percent of the bill's tax cut benefits. Mr. President, I would not consider this broad-based tax relief.

Perhaps the clearest example of how this conference report heaps its tax cut largesse on those who least need it is that it spends nearly 60 billion dollars for the complete repeal of the estate tax. Again, the inclusion of full repeal of the estate tax within this conference report is a clear indication that its proponents do not wish to direct their tax cuts toward hard-working families who need and deserve a break. I believe in estate tax relief for farmers and small businesses of modest means where it is necessary and appropriate. However, the beneficiaries of this provision are overwhelmingly not of modest means. They are the very, very affluent leaving estates worth millions of dollars. Mr. President, I fail to see how this specific tax cut helps the average family struggling to find affordable child care or to meet rising college tuition costs.

Secondly, this conference report fails to meet critical domestic and military priorities upon which our nation's long-range prosperity and security depend. In order to accommodate the costs of a $792 tax cut, extensive cuts of nearly $511 billion will be necessary in domestic spending. If defense is funded at the President's request, cuts to domestic spending would reach almost 38 percent. As a result, over 430,000 children would lose Head Start services, 1.4 million veterans would be denied much needed medical services from VA hospitals, and almost 1.5 million low-income people would lose HUD rental subsidies, forcing many into homelessness.

Perhaps the clearest example of the conference report's failure in this regard is what the conferees have done to child care. Senator JEFFORDS and I offered an amendment to provide an additional $10 billion over the next 10 years to the existing Child Care and Development Block Grant—almost doubling the children that would be served. It passed the Senate by voice vote. So it was surprising, not to mention disappointing, that this provision was summarily eliminated in conference. I intend to continue to work to see that Congress honors the commitment it made in the Budget Resolution to significantly expand funding for quality child care this year and in the years to come.

Third, the conference report, like the Senate-passed bill, continues to pose an increased risk to our current economic prosperity. Federal Reserve Chairman Alan Greenspan testified before the House and Senate Banking Committees just days ago, urging caution about implementing a $792 billion tax cut at a time when the economy is performing so well. Chairman Greenspan stated that it would be better to hold off on an immediate tax cut because it is apparent that the current surpluses are doing a great deal of good to the economy. Moreover, he warned that Congress must also be prepared to cut spending significantly should the surpluses, upon which the tax cuts are based, not materialize. It is ironic to me that so many of our colleagues, who otherwise have had high and vocal praise for Chairman Greenspan's economic leadership, can so readily ignore his clear and repeated warnings about the consequences of their unrealistic and irresponsible tax plan.

I have also noted with particular interest the comments of the esteemed Majority Leader in this week's newspapers where he has stated that an acceptable alternative to the Republican tax plan would be to ''put the money in place so that the debt can be retired.'' This sentiment has also been echoed by the House Majority Leader. These are stunning admissions of the flawed nature of the conference agreement before the Senate today.

Their ''all-or-nothing'' statements reasonably raise the question of how committed the majority is to this tax cut plan. Perhaps they are more committed to having a political issue than to giving working families a reasonable tax cut while also meeting our responsibilities to preserve and strengthen Medicare, Social Security, defense, and education. I fear that the Senate has been engaged in a fruitless political exercise.

Mr. President, I worry that the majority has again squandered a unique opportunity to first maintain our current economic prosperity and then to address the legitimate needs of working families in this country. This legislation neglects to make much-needed investments in Social Security and Medicare, debt reduction, and critical defense and domestic priorities. The President has promised repeatedly to veto this legislation. We should have no doubt about his resolve to do so. Then I hope that congressional leaders will get serious about working in a bipartisan fashion to craft a reconciliation bill that is sensible and responsible. We have worked too hard in this decade to rectify the wretched budgetary excess of the last decade. Now is the time for prudence and caution.

Mr. REED. Mr. President, here we are again, debating a conference report on a ten year, $800 billion tax cut.

This tax cut works on the assumption of a budget surplus that has not been realized yet—a surplus that is generated in no small part by already unattainable budget caps which will lead to a significant, 23% to 38% reduction in essential programs, including Pell Grants, special education, community policing, and drug enforcement.

In my home state of Rhode Island, my constituents stand to lose $15.9 million in Title I education funding and $11 million in Special Education funding. In addition, more than 17,000 Rhode Island students would be denied Pell Grants, and more than 2,000 children would be cut from Head Start programs. At a time when one in five children lives in poverty, can we really bear cuts of this magnitude?

At a time when we are asking the government to respond quicker and perform better, particularly with respect to domestic and international crises, we are considering legislation that trades away the essential services that the American people count on in exchange for speculative tax cuts whose benefit will be fleeting.

This legislation is also a threat to the future of Medicare. Indeed, at the point that Medicare teeters at the brink of insolvency in the next ten to twenty years, the cost of this tax cut could balloon to $2 trillion.

We know that we must take steps as soon as possible to shore up Medicare and Social Security. A responsible use of the surplus would be to make a reasonable allowance for essential programs, address the long-term solvency of Social Security and Medicare, and pay down the federal debt. Then, we should consider a targeted reductions for America's working families.

Of course, everyone realizes that we cannot continue to live under the spending caps. In May, a group of eight House Republicans wrote the President, stating, ''A rational compromise is needed to adjust the caps and maintain them for future years at achievable levels.'' If the most ardent architects of the caps are now having second

thoughts, there is little reason to expect they can be observed in the future.

But, we are already breaking the caps with ''emergency'' appropriations—appropriations that do not count against the caps.

What is an ''emergency'' appropriation exactly? Apparently, it is anything the Majority wants it to be. Just the other day, the House passed legislation designating part of the funding for the 2000 Census an ''emergency''. As conservative columnist George Will noted, we have known about next year's Census since 1790. How could it be an ''emergency''? Mr. President, since the end of fiscal year 1998, Congress has approved approximately $35 billion in ''emergency'' spending. One wonders how many other ''emergencies'' like the decennial census are looming.

Beyond the massive cuts to essential domestic initiatives, this tax bill depends on the performance of the economy. But, Mr. President, after the longest peacetime economic expansion in history, can we continue to count on a robust economy for another year, for another five years, for another ten years? The bill before us depends on this sort of gamble.

Ironically, this tax cut could be just the thing that stalls our economic growth. Recently, fifty economists, including 6 Nobel Laureates, wrote that this tax bill will stimulate the economy at precisely the wrong time.

Even Federal Reserve Chairman Alan Greenspan, usually a strong supporter of tax cuts, has taken a cautionary view toward these tax reductions. The New York Times reported of his testimony on the Hill last week.

> The subject [of tax cuts] came up several times, and Mr. Greenspan's message was stern: Don't do it. ''I'm saying hold off for a while,'' Mr. Greenspan said . . . ''And I'm saying that because the timing is not right.''
>
> Mr. Greenspan urged Congress to pay down the debt and delay any tax cut until the economy begins to turn down. ''The business cycle is not dead,'' he warned, telling lawmakers that whenever an economic slowdown hits, ''a significant tax cut'' may be needed to ward off recession.

In all respects, this legislation lacks proportionality. Fortunately, this bill, even if it passes the Senate and is sent on to the President, will be vetoed. It is regrettable that we have wasted so much time on this bill, when, instead, we could have focused on truly important issues like preserving Social Security and Medicare. Now that the political play has been made, I hope that we can return to substantive work on issues that really matter to the American people.

Mr. HATCH. Mr. President, today we are considering a bill to return a portion of the surplus that is projected to be $2.9 trillion over the next ten years. This bill represents a balanced package that takes into account the problems as well as sharing in the good times. The bill will provide fiscally responsible tax relief over the next ten years while reducing the public debt and still save the $1.9 trillion Social Security surplus.

Many of my colleagues have argued that $792 billion in tax cuts is too much—that we should save this money for Medicare and other spending. I strongly disagree. It is important that we not forget those who are responsible for the surplus—hard-working, overpaying taxpayers. After all, what is a surplus—it is excess revenues over the amount needed to fund government operations.

The $2.9 trillion surplus is large enough to balance our priorities. This Conference Report shows that we can provide meaningful tax cuts, provide for Medicare reform, and reserve the Social Security surplus.

I also marvel at how much we have recently heard from my colleagues on the other side of the aisle about debt reduction. I never knew the depth of their convictions on this, particularly since they fought the balanced budget amendment so hard. The balanced budget amendment would have once and for all imposed spending restraints on Congress. The majority of my colleagues on the other side of the aisle argued vigorously against such constitutional restraints, implying that they wanted unlimited access to the government checkbook.

In my view, if we have a surplus, and we do not have a tax cut, the temptation of Congress to spend that surplus will be too great. I made this point many times during debate on the constitutional amendment to balance the budget, and I will make it again. If we have a surplus, this money will burn a hole in Congress' pocket.

This conference report provides tax cuts for everyone by cutting tax rates 1% across-the-board. This may not sound like much, but it represents real tax cuts for each and every taxpayer. In addition, couples filing married returns will see their marriage penalty eliminated. It is sending the wrong signal to American taxpayers when a couple in Utah faces a higher tax bill when they marry than they do as singles. The bill also helps our families struggling to finance a quality education for themselves and their children.

The bill also addresses the need for enhanced retirement security. It makes IRAs more widely available and improves retirement systems to increase access, simplify the rules, increase portability and provide small business incentives.

We have all heard about the challenge that providing adequate health care that is facing American families. This bill provides meaningful help for those who are struggling with the costs of insurance.

This bill also contains provisions that would help keep economic growth strong. There is a package of international tax relief that provides simplification and helps American companies which have operations overseas remain competitive and continue to grow. The expiring tax credits are extended.

I am disappointed that the research and experimentation tax credit was not made permanent. I still believe that our American research engine would be helped significantly by relieving the uncertainty that a sunsetted credit imposes. Nevertheless, the 5-year extension in this bill is a step in the right direction. I hope that we can revisit this issue in the future and provide for a permanent tax credit for research and experimentation.

This conference report contains some important improvements over the Senate bill. I am particularly heartened to see the full repeal of the estate tax and capital gains tax relief as part of this bill.

The ''death tax'' is unfair and inefficient. For every dollar that we collect, roughly 65 cents is spent complying and collecting this tax. This is the wrong way to use up our resources.

This bill also accelerates the capital gains tax rate cuts we passed in 1997. In addition, it will shorten the required holding period of assets from 5 years to 1. This will provide significant simplification for those taxpayers struggling to determine which capital gains rate applies and how long they have held their assets. This is true simplification and real relief. And, let's make no mistake: these tax changes will benefit more Americans than just the wealthy. These estate tax and capital gains tax provisions will benefit every American who owns a home, business, or family farm. It will benefit the increasing number of Americans who are investors in mutual funds and other securities.

It is easy for us to get lost in the debate over numbers and how we should spend the surplus. However, we must keep in mind who sent us the revenue that created the surplus. We are talking about families struggling to make ends meet, provide an educations for their children, or save for their retirement. They are the family funning the corner grocery store or landscaping business. They are bus drivers, day care providers, carpenters, and students.

This conference report is a balanced tax cut package that provides relief for middle class taxpayers. It gives American families a well-deserved tax break, simplifies the tax code, and provides pro-growth incentives to help keep the economy strong and growing. This $792 billion bill is the biggest tax cut since the Ronald Reagan presidency. Yet, it still represents a rebate of only one-quarter of the surplus dollars that the federal government has collected. I hope that the President can agree that we owe the American taxpayers that much and sign this legislation.

Mr. MURKOWSKI. Mr. President, I rise to speak in strong favor of the Conference agreement that will provide every single American a well deserved refund of the taxes they are now overpaying as the government runs a surplus.

I especially want to commend Chairman ROTH for the extraordinary work

he did in what must be record time to produce this Conference report. My colleagues should recollect that barely 6 days ago today that the tax bill was adopted on the floor of Senate.

And now we are here with a completed conference report. The work of the Chairman, Finance Committee staff and the Joint Tax Committee staff is to be applauded. They all labored long hours and the result is a bill that I am proud to support.

The Congressional Budget Office (CBO) projects that the total budget surplus over the next 10 years will be $2.9 trillion. Nearly a trillion dollars ($996 billion) of that surplus ($996 billion) comes from overpayments of income and estate taxes.

What this tax bill does is return barely 25 percent of the surplus tax payments and return that money to the American taxpayer. All of the $1.9 trillion Social Security surplus will be used solely for preserving Social Security. And, as a result of this bill, we have more than $200 billion available for saving Medicare and paying down part of the debt.

Mr. President, yesterday, President Clinton reiterated that he will veto this bill because he believes the tax refund is too large.

The fact is that what the President wants to do is not provide a tax refund to the American public, but instead he wants to use the surplus to finance $1 trillion in new federal spending. And despite his claim that he wants to cut taxes by $300 billion, CBO scored the President's budget as actually raising taxes by $100 billion over the next 10 years.

In other words, at a time when we are running real surpluses in the hundreds of billions, the President comes along and wants to impose even higher taxes on the American people so he can finance more big government.

The bill before us should not be vetoed because it provides a tax refund to every single American who pays taxes. The lion's share of the tax cut—nearly $400 billion—results from cutting the 15 percent rate to 14 percent and the near elimination of the marriage penalty.

Is that what President Clinton objects to—reducing the tax rate paid by the lowest income taxpayers? Or does the President object to elimination of the marriage penalty? That must be the case Mr. President, because if the President had his way and we cut taxes by $300 billion, we could not eliminate the marriage penalty; we could not cut the rate paid by the lowest income earners.

The bill also provides rate relief for all bracket taxpayers over the next 10 years. A modest 1 percent reduction in all tax rates is surely something we can afford with a trillion dollar surplus. I find it hard to believe that the President would object to such a modest change.

The conference report also contains the Senate provisions that up the limit on contributions to Individual Retirement Accounts (IRAs) to $5,000. Moreover, it retains the provision in our bill that allows increased contributions by people over 50.

In recent months, we have seen that the American savings rate is actually a negative number. These incentives could well serve to increase our savings rate. Is that what President Clinton objects to—enhancing retirement savings incentives?

Or does the President object to the health care provisions in this bill. Health care changes that bring a much needed level of equity to the tax code?

Allowing the self employed to deduct 100 percent of the cost of health insurance finally brings small business to parity with large corporations.

And for the first time in our history, employees who pay for more than half of their own health insurance will be able to take an above-the-line deduction for those costs.

I thought the President was so concerned about the uninsured? Why would he veto a tax bill that finally provides health equity to employees and small business owners?

The conference report will also serve to continue the flow of money into equity markets by cutting the capital gains rate to 18 percent for all transactions that took place after January 1, 1999. I believe the capital gains rates should be even lower, but with the resources at hand this is an appropriate change.

One of the most important changes in the conference report is the phase out and ultimately, in 2009 the elimination of the estate tax. This onerous tax punishes the hard work of many Americans and the death of this tax is long overdue. Confiscatory estate tax rates of 55 percent should, if this bill becomes law, finally be a relic of history.

This conference report will be sent to the President when we return in September. He has one month to reconsider his reckless veto threat. The American people deserve a tax refund. This conference report provides very modest and long overdue relief. I urge my colleagues to support this bill and I ask the President to reconsider his veto threat.

Mr. LEAHY. Mr. President, Congress went on a tax cut binge in the 1980s and left the bill for our children. Now that we have surpluses, we have a chance and an obligation to pay off that debt. The last thing Congress should be doing right now is to put our strong economy at risk by passing a tax scheme as risky as the Republican plan.

Some of my fellow colleagues in Congress have gone off again on a binge of irresponsible tax cutting that puts our strong economy in jeopardy. Projections of budget surpluses in the future have gone straight to their heads—as if projected budget surpluses were like hard cider. It is time for my colleagues in the House and Senate to splash some cold budget reality on their faces and return to their economic senses.

A sound economy rests on a solid foundation of balanced revenue and spending policies. For the past seven years, the President and Congress have build this solid foundation by reducing the deficit and restraining spending. Just as we Vermonters restrained spending and put Vermont's state budget in the black, Yankee thrift was alive and well in Washington, as it is in Vermont.

President Clinton inherited a deficit of $290 billion in 1992 and his administration and Congress have steadily cut it down. For the first time since 1969, we now have a balanced budget.

I am proud to have voted for the 1993 deficit reduction package, which was a tough vote around here, and has brought the deficit down. I am also proud to have voted for the 1997 balanced budget and tax cut package—tax cuts that were fully paid for by offsetting spending cuts. These balanced policies have kept interest rates down and employment up. In fact, over the past seven years, this deficit reduction has produced $189 billion in interest savings on the national debt, or roughly $2,700 in savings for every American family.

Republicans and Democrats can rightfully claim their shares of the credit for getting the nation's fiscal house in order. The important thing is to keep our budget in balance well into the 21st century and keep our economy growing.

That dose of Yankee fiscal discipline has paid off for Vermonters. Since 1993: Vermont's unemployment rate has been cut in half, from 5.8% to 2.9%; 20,000 new jobs have been created; Vermonter's average income has increased 25 percent; crime in Vermont has dropped by 15 percent; and the stock market has soared by 300 percent.

Instead of keeping on this path of prosperity, the huge tax cut bill that Congress just passed veers from our successful fiscal discipline. It cuts taxes by $792 billion and pays for these sweeping cuts out of projected budget surpluses over the next 10 years. These surpluses are not real. They are just projections. What happens if we suffer a recession in three years or a depression seven years from now? These tax cuts are paid for by Monopoly money.

But fooling with our strong economy is not a game. Passing risky tax cuts based on wishful thinking will have real consequences for Vermonters. It is estimated that paying for these huge tax cuts would: force more than 13,000 Vermont veterans to lose health care benefits; prevent any Medicare reform and new prescription drug coverage for senior Vermonters; drop 3,699 Vermonters from the WIC program; close off 2,116 Vermont students from Pell grants to help make college more affordable; and serve 11,127 fewer school lunches to Vermont children.

Instead of this fiscal folly, I believe Congress should follow three basic principles to continue our strong economy and provide targeted tax relief.

First, we must continue to keep our fiscal house in order and pay down the national debt. The national public debt stands at $3.6 trillion—that is a lot of zeros. Like someone who had finally paid off his or her credit card balance but still has a home mortgage, the federal government has finally balanced its annual budget, but we still have a national debt to pay down. Indeed, the Federal government pays almost $1 billion in interest every working day on this national debt.

It makes a lot more sense to pay off the national debt as our first priority, because nothing would do more to keep the economy strong. Paying down our national debt will keep interest rates low. Consumers gain ground with lower mortgage costs, car payments, credit card charges with low interest rates. And small business owners can invest, expand and create jobs with low interest rates.

Alan Greenspan, head of the Federal Reserve, recently testified before Congress that: ''I would prefer that we keep the surplus in place and reduce the public debt.'' I agree with Mr. Greenspan and I believe most Vermonters do too.

Second, we should put aside some of the surplus in a rainy day fund for Medicare and Social Security reforms. Just as we set aside extra revenue in a rainy day fund in Vermont, Congress should do the same on a national level. We all know that Congress must reform Social Security and Medicare for the future costs of the baby boom generation. This rainy day fund should also permit Medicare to cover prescription drug coverage for our seniors.

One of the toughest and most important challenges that we face—right now—is to make sure that Social Security and Medicare will continue to be there for those who retire decades from now. The number of Social Security beneficiaries will rise by 37 percent from now until 2015, and Medicare runs into problems even earlier than that. Protecting Social Security and Medicare will not be easy, but these projected surpluses make it easier to keep both programs strong for future generations.

Third, tax cuts should be fair and targeted to help all Vermonters, not just the wealthy. According to a Treasury Department analysis, the Senate-passed tax plan provides 67 percent of its tax breaks to the wealthiest 20 percent of Americans—those making more than $81,000 a year—while the poorest 60 percent of families would reap only 12 percent of the Senate-passed tax cuts. That is not fair.

This conference report is even more tilted in favor of the wealthy. According to an analysis by the Citizens for Tax Justice, the top 10 percent of taxpayers would receive 69 percent of the benefits under this bill while the bottom 60 percent would receive only 7.5 percent of the benefits from the conference agreement. That means the average tax cut would be $138 for the bottom 60 percent of taxpayers while the top one percent of taxpayers would receive a tax break of $46,389. Again, that is not fair.

Tax cuts that are targeted— such as eliminating the marriage tax penalty, permitting the self-employed a full tax deduction for their health insurance and estate tax relief for family farmers and small business owners—also don't break the bank. I supported a more responsible alternative package of $290 billion in targeted tax cuts that would still leave room in the budget for Congress to make key investments in veterans, education and crime-fighting programs. I believe this targeted approach is far more prudent than the Republican tax cut plan.

The enormous budget surplus that the Senate leadership claims is available to pay for nearly $800 billion in tax cuts is achieved only by unrealistic economic assumptions and deep cuts in programs that will never be attained. That is why I cosponsored an amendment filed by Senator ROCKEFELLER that assumes there will only be a $100 billion surplus over the next ten years. This projected surplus is consistent with estimates by the Concord Coalition, Center for Budget and Policy Priorities, former CBO director Robert Reischauer and the Citizens for Tax Justice. The Rockefeller-Reed-Leahy amendment is a prudent and fiscally responsible approach that balances tax relief with reducing our debt and maintaining obligations to existing programs such as NIH research, veterans health, Head Start and the environment.

I call upon President Clinton to follow through on his pledge to veto this irresponsible tax scheme. He should send Congress back to the drawing board to do it right. And the next time, Congress should apply a stout measure of Yankee thrift.

EXPLANATION OF ABSENCE

• Mr. CRAPO. Mr. President, due to the wedding of my oldest daughter, Michelle Crapo, I will be unable to participate in the debate and vote on the Conference Report for H.R. 2488, the Taxpayer Refund and Relief Act of 1999. Had I been present, I would have cast my vote in favor of the measure.

The Taxpayer Refund and Relief Act of 1999 is good news for America and will give individual income taxpayers the long-overdue tax relief they deserve. I am most pleased by the one percent across-the-board income tax cut for all individual tax rates and the marriage penalty relief provisions contained in the report. These provisions alone will go a long way towards reducing the tax burdens of the average Idaho family.

I am also encouraged to see that the Conference Report eliminates the estate tax, provides alternative minimum tax relief, increases the annual contribution limits for individual retirement accounts and education savings accounts, and reduces individual capital gains tax rates.

The Conference Report for the Taxpayer Refund and Relief Act of 1999 is good for income taxpayers, the economy, and the nation. I urge my colleagues to support the report.•

SECTION 1317

Mr. BREAUX. Mr. President, will the distinguished chairman of the Finance Committee yield for a question?

Mr. ROTH. Mr. President, I will be glad to answer the distinguished Senator's question.

Mr. BREAUX. Mr. President, the conference report for The Taxpayer Refund and Relief Act of 1999 states that section 1317 of the Senate amendment regarding prohibited allocation of stock in an S corporation ESOP was not included in the conference agreement. Is that report language correct?

Mr. ROTH. Mr. President, that report language is not correct. The conference agreement adopted section 1317 of the Senate amendment without modification.

Mr. BREAUX. Mr. President, I thank the distinguished Chairman for this clarification.

TAX TREATMENT OF COMMISSIONS PAID TO ENROLL CELLULAR TELEPHONE CUSTOMERS

Mr. MURKOWSKI. Mr. President, the Senator from Louisiana, Mr. BREAUX, the assistant majority leader, Senator NICKLES, and I would like to engage Chairman ROTH in a brief colloquy on an issue that several members of the Finance Committee have become involved in over the past several months.

I refer to the fact that in some cases the IRS has taken what I believe is an unreasonable and unrealistic position regarding the tax accounting of sales commissions paid by providers of commercial mobile telephone service for enrolling customers. In the cases I refer to, IRS has contended that these costs should be capitalized and amortized over the average customer life, rather than deducted.

Mr. BREAUX. I have been very concerned about this issue, as well. It seems to me that commissions paid by cellular telephone companies are like any other marketing expenses incurred by telephone companies—or any other companies—and are deductible under current tax law.

Mr. NICKLES. I want to lend by voice to the positions expressed by both Senator MURKOWSKI and Senator BREAUX. It does not make sense to me that sales commission/costs can be anything but deductible.

Mr. MURKOWSKI. This issue is not addressed in the pending tax bill because the Treasury Department has indicated to the Finance Committee that it is in the process of reviewing the IRS's position. We have been assured by Treasury officials that they plan to resolve the issue this year.

The Treasury apparently agrees that the IRS may have gone too far.

Mr. BREAUX. The IRS position would be difficult or impossible to administer. The position will lead to years of litigation, as companies and the IRS battle out whether commissions should be capitalized or deducted.

That will drain resources from both sides for no productive reason.

Mr. MURKOWSKI. We would like to ask Chairman ROTH for his views on how this issue can be resolved expeditiously and efficiently.

Mr. ROTH. I agree that this is an issue of concern to Finance Committee members. The cellular telephone industry is a high-growth, job-creating, industry. It is clear to any observer that the industry is frenetically competitive. Companies incur substantial marketing expenses, including sales commission, to attempt to sign up new customers and to entice customers to move from other carriers.

I have little doubt that the IRS's position requiring companies to capitalize the sales commissions may lead to years of litigation. The Treasury Department has made the decision to review the IRS's position. The agency included the issue in its 1999 Priority Guidance Plan and has advised the Committee that they plan to deal with the issue this year.

I strongly support the quick resolution of this issue by the Treasury Department. Sales commissions are a basic cost of doing business for cellular telephone companies, and I believe that the Treasury should be able to reach a sensible resolution of this issue.

Mr. MURKOWSKI. I very much appreciate the chairman's thoughts and look forward to working with him and the Treasury to see this issue dealt with.

Mr. BREAUX. I also appreciate the chairman's views on this. We are confident that the Treasury can resolve this issue satisfactorily, and we will be following events at the Treasury closely.

Mr. NICKLES: I thank the chairman for sharing his views on this important issue. I hope it can be expeditiously resolved.

Mrs. BOXER. Mr. President, this bill is a reckless tax plan. As a way to summarize my opposition, the following are my top ten reasons I oppose this bill.

One, it is unfair to the middle class and the working poor. The average tax cut for a person who makes $30,000 per year is $311, compared to a tax cut of almost $46,000 for someone who makes more than $800,000 per year.

Two, it threatens low interest rates. Alan Greenspan testified before the Senate Banking Committee last week—and I quote—''It's precisely that imprecision and the uncertainty that is involved which has led me to conclude that we probably would be better off holding off on a tax cut immediately, largely because of the fact that it is apparent that the surpluses are doing a great deal of positive good to the economy in terms of long-term interest rates.'' If interest rates go up just one percentage point on a $100,000 mortgage, the increased monthly cost is $70—in essence a tax increase on every homeowner.

Three, there is not a dime in it for Medicare. As the Baby Boom generation begins retiring in 10 years, the Medicare situation will get larger, not smaller. This plan, by ignoring the issue, just compounds the problem we all know is coming.

Four, there is nothing in it for debt reduction. Because the Democratic plan saves Medicare, it has the added benefit of reducing the debt. We have a historic opportunity to ensure that our children will not be saddled with huge interest costs, which currently total over $600 million a day.

Five, it contains special-interest goodies, such as repealing an excise tax for a few companies that make tackle boxes and providing a $4 billion tax break on foreign oil and gas income.

Six, it will require huge and unsustainable cuts in discretionary spending. Because the Republicans are assuming a freeze on discretionary spending at fiscal year 1999 levels—something they will violate in the next few months—the reality is that this plan would force cuts of an enormous size in education, law enforcement, environmental protection, and the military. This is completely unrealistic given inflation and the needs we have as a country.

Seven, it relies on long-term surplus projections, which is very risky. Any businessman will tell you that even projecting out five years is unreliable at best. This bill tries to predict the economy over the next 10 years.

Eight, it ties our hands in the event of a recession. The country is in a tremendous economic rebound, and we do not need a broad-based economic stimulus. But if we go into a recessionary period, that is when a tax cut would be needed—to help us get out of the recession. This plan precludes that option.

Nine, it risks going back to the dark days of dramatic deficits. We have finally balanced the annual budget after 30 long years of red ink, and this plan turns right around and goes back to those times.

Ten, it is totally partisan. The Republican leadership rejected compromising with Democrats—and no Democrats were even in the room when this plan was put together. That is no way to write important legislation that affects every American.

I urge the President to fulfill his promise to veto this dangerous legislation, which jeopardizes the most remarkable economic recovery in history.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I now yield 5 minutes to the Senator from New Jersey, who will be our last speaker.

Mr. TORRICELLI. Mr. President, I ask at the end of 4½ minutes I be notified the time has expired.

The PRESIDING OFFICER. The Senator will be notified.

Mr. TORRICELLI. Mr. President, in life you can extend your hand, but to make any real progress someone has to grasp it. For these several weeks, many of us have worked to try to find some reasonable middle ground in the cause of reducing taxes on the American people. It was a worthwhile effort. I believe, indeed, taxes on middle-income Americans are too high and it is the American people who worked hard and paid their taxes who have produced this extraordinary American surplus. They deserve a dividend for the American economic performance.

But a tax reduction is not all the American people deserve. They also deserve to know their children are getting educated in quality schools with good teachers. I am for tax reduction, but I want a tax reduction that allows teachers to reduce class size and the rebuilding of crumbling American schools. I am firmly committed that tax reductions for the middle class are required and should be enacted by this Congress. But I also believe the American people must have a health care system that provides for prescription drugs through Medicare for elderly Americans.

My point is simply we are at a time when the Nation can both afford and requires multiple objectives. In the bipartisan tax reduction plan of $500 billion, Senator BREAUX, Senator KERREY, and I, working with our Republican colleagues, fashioned a plan where we believed we could reduce taxes on savings to encourage the American people to invest in the new economy by reducing or eliminating capital gains taxes on modest investments and by eliminating taxes on interest on modest savings accounts so all Americans save for their own future for security for their own families.

In our plan we expanded by 4 million families the number of people from the 28-percent tax bracket to the 15-percent tax bracket because this Government has no right to tax at 28 percent the modest incomes of families who earn $50,000, $60,000, and $70,000, raising one and two children. Indeed, at this point in our history it is something we can afford—to allow people to keep that money for their own needs.

Perhaps it was always going to be so, but that bipartisan tax plan was not enacted. But I am not a man who is discouraged easily. When the bipartisan plan was introduced, we described it as the October plan because there are tax plans that are presented because they have political value and communicate a political message, and there are tax plans enacted because they can be attained and they change the law. This was never going to be a brief process and perhaps it was never going to consist of a single phase. Tonight, the first phase is concluded. A message is being sent to the President and to the American people by both political parties. The Democratic Party is committing itself to middle-class tax relief after protecting Social Security and allowing for national objectives of Medicare and education.

The PRESIDING OFFICER. The Senator has consumed 4½ minutes.

Mr. TORRICELLI. Thank you, Mr. President.

I believe that is still a worthwhile objective and I join with my party in doing so. It is, however, my hope that we can accelerate this process. This bill can be passed tonight, the President can exercise his judgment, and we can return.

Therefore, I ask unanimous consent if the conference agreement passes, the bill be enrolled within 5 days and sent the following day to the President.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TORRICELLI. Mr. President, I regret that will mean the process will have to continue longer than otherwise required. I hope we can return in the fall and pass a reasonable tax cut that accommodates other national objectives on a bipartisan basis.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I ask there be printed in the RECORD a statement ''Sequester Impact of Tax Bill,'' prepared today by the Office of Management and Budget. I will read two sentences:

Beginning in 2002, Medicare would be cut by 4 percent each year. * * *

In 2002, the $28 billion cut in mandatory savings resulting from a sequester would still be $6 billion less than the cost of the tax bill.

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

SEQUESTER IMPACT OF TAX BILL

If the Conference Agreement on the Republican Tax bill were to be enacted in its present form, it would result in a sequester of mandatory programs in each year beginning in 2000. Mandatory spending would be cut by $2.4 billion in 2000. Beginning in 2002, Medicare would be cut by 4% each year. Mandatory programs subject to a full sequester would be eliminated, including CCC, child support enforcement, social services block grants, immigration support, crop insurance, mineral leasing payments and veterans education and readjustment benefits.

The costs of the tax bill in 2002 and subsequent years exceed the savings that could be achieved by a sequester of mandatory programs. In 2002, the $28 billion cut in mandatory savings resulting from a sequester would still be $6 billion less than the costs of the tax bill.

MEDICARE

Medicare spending would be cut by $2 billion in FY 2000 and by $9.2 billion or 4% in FY 2002. Medicare payments to all providers (e.g., hospitals, physicians, home health agencies, skilled nursing facilities) would be reduced proportionally by the sequester.

Any reduction in current Medicare spending will increase the pressure to ''undo'' the BBA and increase Medicare spending. It also will make it difficult to garner support for the reforms included in the President's Medicare reform plan, which includes important new initiatives (e.g., the prescription drug benefit) as well as justifiable reductions in spending.

VETERANS READJUSTMENT BENEFITS

The Readjustment Benefits account provides education benefits and training to more than 450,000 veterans, reservists, and dependents through the Montgomery GI Bill and the Vocational Rehabilitation and Counseling Programs.

The elimination of Readjustment Benefits in FY 2002 would mean that these veterans, reservists, and dependents would lose entitlement to the education and training programs many were promised (and paid into) when they enlisted. Programs like the GI Bill are the most potent recruitment and retention tools the military services have. Further, service members transitioning to civilian life would no longer be afforded retraining through college programs, work-study, or on-the-job training.

If eliminated, the Vocational Rehabilitation and Counseling program, which helps 50,000 disabled veterans overcome employment handicaps sustained on active duty, would no longer assist veterans in finding jobs and becoming productive members of society again.

CCC FARM PROGRAMS AND CROP INSURANCE

The Senate has just passed a bill that provides over $7 billion in FY 2000 emergency assistance to the Nation's farmers and ranchers, to help them through these times of nationwide low commodity prices and regional droughts that are withering crops and livestock. Simultaneously, this bill would cut assistance to farmers funded through the Commodity Credit Corporation, through a small FY 2000 sequester, at a time when many farmers are hurting.

The effect on farm programs in the outyears starting in FY 2002 would be catastrophic, and cause thousands of farmers and ranchers to go out of business. Farm income and price support programs would be devastated, and if today's commodity prices were to continue into the outyears, the ''family farm'' would become a historic relic. In addition, with U.S. agriculture heavily dependent on exports, such an outyear sequester would end USDA's export credit programs that guarantee billions of dollars of farm exports a year.

Starting in FY 2002, the Agriculture Department's crop insurance program would shut down, and without insurance most farmers and ranchers could not secure the financing from banks needed to operate their farms and ranches.

STUDENT LOANS

Guaranteed and Direct Student Loan Program borrowers would have their origination fees increased by one-half of a percentage point beginning in 2000.

The average student loan borrower would pay an additional $28 in origination fees. A graduate student taking out the maximum $18,500 loan would pay an additional $93 in fees. A college junior or senior taking out the maximum $10,500 loan would pay an additional $53 in fees.

Over 5.5 million beneficiaries would be affected.

CHILD SUPPORT ENFORCEMENT

New Federal funding for Child Support Enforcement would be eliminated beginning in 2002 and many States would no longer be able to continue this critical program. In FY 1998 this program collected $14.3 billion on behalf of children and families, and helped many low-income families move from welfare to work.

SOCIAL SERVICES BLOCK GRANTS (SSBG)

Beginning in FY 2002, SSBO would be eliminated. SSBG provides funding to States to support a wide range of programs including child protection and child welfare, child care, as well as services focused on the needs of the elderly and handicapped. The inherent flexibility of this grant permits States to best target funds to meet the specific needs in their communities.

IMMIGRATION SUPPORT

Mandatory funding for immigration programs pays for the costs administering laws related to admission, exclusion, deportation and naturalization of aliens. These costs are funded principally from fees paid by aliens. Sequestering this entire amount in FY 2002 and subsequent years would bring the immigration services program to a halt, leaving millions of legal aliens stranded in the immigration process and stopping all new immigration actions. This untenable situation would have the further effect of stopping all new fee revenue collections, thereby increasing overall mandatory spending.

MINERAL LEASING ACT PAYMENTS

The impact of a 100-percent outyear sequester starting in FY 2002 on Mineral Act Leasing payments would be devastating to many States. Under current law, these payments are made by the Interior Department to States as a percentage of Federal receipts received from the leasing and development of mineral resources (oil, gas, coal,) on Federal lands in those States. Most of the payments are made to the western States and to Alaska. The States, in turn, generally use these payments to help finance local elementary and secondary schools. Some of the lowest-income States would have outyear funding to schools substantially reduced as a result of such a large sequester.

PAYGO SEQUESTER CALCULATION

[Dollar amounts in millions]

| | 2000 | 2001 | 2002 | 2003 | 2004 |
|---|---|---|---|---|---|
| PAYGO Net Deficit Increase | 2,388 | 245 | 34,531 | 51,935 | 61,700 |
| Excess above total PAYGO sequester baseline | 0 | 0 | 6,332 | 23,410 | 32,193 |
| Sequester amount (constrained to baseline) | 2,388 | 245 | 28,199 | 28,525 | 29,507 |
| Programmatic Sequester Amounts: | | | | | |
| Special rules: | | | | | |
| ASI | 24 | 38 | 39 | 40 | 41 |
| GSL and Foster Care | 180 | 191 | 203 | 215 | 228 |
| Medicare | 1,981 | 15 | 9,247 | 9,993 | 10,567 |
| All other (across-the-board sequester): | | | | | |
| CCC | 76 | 0 | 5,047 | 4,309 | 4,327 |
| Child Support Enforcement | 12 | 0 | 3,148 | 3,381 | 3,649 |
| Social Services Block Grants | 22 | 0 | 1,441 | 1,435 | 1,435 |
| Immigration Support | 14 | 0 | 1,319 | 1,319 | 1,319 |

PAYGO SEQUESTER CALCULATION—Continued

[Dollar amounts in millions]

| | 2000 | 2001 | 2002 | 2003 | 2004 |
|---|---|---|---|---|---|
| Crop Insurance | 14 | 0 | 1,642 | 1,708 | 1,786 |
| Mineral leasing Act payments | 6 | 0 | 630 | 644 | 656 |
| Veterans Educ & Readj. Benefits | 8 | 0 | 1,041 | 1,039 | 1,057 |
| All other | 50 | 0 | 4,443 | 4,443 | 4,443 |
| Total, across-the-board seq. amounts | 203 | 1 | 18,711 | 18,278 | 18,671 |
| Sequester total | 2,388 | 245 | 28,199 | 28,525 | 29,507 |

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield back such time as remains.

Mr. President, would you believe there is one more Republican speaker?

The PRESIDING OFFICER. The Chair would believe that statement.

THE TAXPAYER REFUND & RELIEF ACT OF 1999—THANKS TO THE STAFF

Mr. LOTT. Mr. President, tonight we are passing a fantastic piece of legislation. The Taxpayer Refund and Relief Act of 1999 will return $792 billion of tax overpayments to American taxpayers over the next 10 years. It will cut income tax rates for all Americans. It contains dramatic cuts in the marriage penalty. It cuts capital gains tax rates and indexes capital gains for inflation. It eliminates death taxes. It expands retirement opportunities, educational opportunities, and health care choices. This, Mr. President, is a superb bill, and I am proud to have been a part of the process that developed it.

I want to thank the following staff for their dedication, intelligence, long hours, and commitment to Republican principles. The most important of these are Chairman BILL ROTH'S staff. Chairman ROTH provided the leadership, and these people did all the hard work to back them up. From Senator ROTH's Committee on Finance, I want to thank Frank Polk, Joan Woodward, Mark Prater, Brig Pari, Tom Roesser, Bill Sweetnam, Jeff Kupfer, Ed McClellan, Tara Bradshaw, Ginny Flynn, Connie Foster, and Myrtle Agent. They are the tax counsels and policy experts who help us understand the intricacies of tax policy and legislation. We rely upon them every day for advice, and we have leaned on them for support during the past month. They are professional, patient, intelligent, and dedicated. I also want to thank John Duncan and Bill Nixon from Senator ROTH's staff for their leadership.

One person in particular deserves special mention. Mark Prater, Chairman BILL ROTH's chief tax counsel, was the principal Senate staff architect of this bill. Mark is an enormously valuable resource to the entire U.S. Senate. Mark's knowledge of tax policy and the tax code are unsurpassed. His dedication to good tax policy is unmatched. While we all worked hard to craft this legislation, Mark has given his days, nights, and weekends to this bill for several months. And his patience, professionalism, and easygoing demeanor make it a pleasure to work with him. I know that I speak for all of my colleagues, and for their staff, when I say thank you to Mark Prater for his work on this bill.

I want to thank all of the Joint Tax Committee staff for their excellent, professional staff work. Under the leadership of Lindy Paull, and two of her deputies, Rick Grafmeyer and Mary Schmitt, the Joint Tax staff did an incredible job turning around legislative language and scoring faster than we thought possible. They said we couldn't conference two $792 billion bills in less than a week. Thanks to the leadership of BILL ROTH and BILL ARCHER, and to the lightning speed of the Joint Tax staff, we proved them wrong.

The staff for the Republican members of the Finance Committee also deserve special recognition: Kathleen Black from Senator CHAFEE's staff, Kolan Davis from Senator GRASSLEY's staff, Judy Hill from Senator HATCH's staff, Alexander Polinsky from Senator MURKOWSKI's staff, Hazen Marshall from Senator NICKLES' staff, Ginger Gregory and Keith Hennessey from my staff, Dick Ribbentrop, Steve McMillin, and Mike Solon from Senator GRAMM's staff, Jeff Fox and Ken Connolly from Senator JEFFORDS' staff, Vic Wolski and Shelly Hymes from Senator MACK's staff, and Rachel Jones and Libby Wood from Senator THOMPSON's staff.

Much of this debate centered on questions that are normally considered in a budget resolution, rather than a reconciliation bill. So I also want to thank Senator DOMENICI's excellent Budget Committee staff, who, as always, did top-notch work. In particular, I want to highlight the efforts of Bill Hoagland, Cheri Reidy, Beth Felder, Jim Capretta, Amy Smith, Sandra Wiseman, and Andrew Siracuse. And we can't forget the Budget Committee ''masters of spin,'' Bob Stevenson and Amy Call.

I offer my profound thanks to all of these dedicated Senate staff. Without their hard work, we would not be enjoying today's success.

I believe then Senator SPECTER will be the final speaker.

Mr. ROTH. I yield 3 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my view, the underlying issues on the conference report on the tax cut bill present a close question. There is much to be said for the basic proposition of returning a portion of the surplus to the taxpayers so that they, instead of Congress, can decide where to spend the money.

The competing view is that the projected surplus over a 10-year period is highly speculative and that great care must be exercised to be sure Social Security and Medicare are solvent. The projected surplus also requires adherence to caps or limitations on spending which both the Congress and the President now admit to be unrealistic. The projected surplus also does not take into consideration emergencies, such as the multibillion-dollar Agriculture appropriations bill which passed the Senate last night.

In addition, there is substantial merit to using any surplus to pay down the national debt, thus reducing the $293 billion in annual interest charges on the $5.6 trillion debt. On balance, on a close question, I believe the Nation's interest will be best served by rejecting the $792 billion tax cut, leaving open the possibility at a later time of a more modest $500 billion tax cut as proposed by a group of centrists.

In reality, the vote on the conference report may well be meaningless in light of the President's repeated statements that he will veto the bill. This bill is probably just another step in the complex negotiations involving pending appropriations bills, including mine as my capacity as chairman of the Subcommittee on Labor, Health and Human Services, and Education.

I voted against the tax bill when it was before the Senate last week, and I am opposed to the tax bill tonight. At the urging of the majority leader, Senator LOTT, I have agreed to consider a live pair with my colleague, Senator MIKE CRAPO, who is in Idaho for his daughter's wedding. As of early this morning when I talked to Senator CRAPO, there were no commercial flights which would return him to Washington in time to vote. If he returned by charter aircraft, he would miss his daughter's wedding ceremony and disrupt the family's wedding celebration.

I have decided to agree to that live pair, which means that during the rollcall, if it is necessary, if it turns out Senator CRAPO's vote is indispensable, I will say that if Senator CRAPO were here, he would vote aye for the bill and I would vote nay against the bill. His absent aye vote would be paired then with my nay vote which would not be cast.

I am concerned, candidly, that this live pair being inside the beltway would be widely misunderstood, but I believe it is preferable to compelling Senator CRAPO's return to Washington

or to have the will of the Senate exclude the vote of Senator CRAPO who could not be here unless he returned by charter jet and missed his daughter's wedding.

As I say, I voted against this bill last week, and I am opposed to it today. I intend to vote no unless the live pair with Senator CRAPO is indispensable for the reasons I have just outlined.

I thank the Chairman and yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Delaware.

Mr. ROTH. Mr. President, I yield myself such time as remains. I think it is 2 minutes.

As I said this morning, the fundamental question before Congress these past few weeks, as we have debated the Taxpayer Refund Act of 1999, is quite simple: Is it right for Washington to take from the taxpayer more money than is necessary to run Government?

The issue of tax relief isn't anymore complicated than that, and the outcome of the conference between the Senate and the House makes it clear that Government is not automatically entitled to the surplus that is, in large part, due to the hard work, thrift, and risk taking of the American people. Individuals and families are due a refund. That is exactly what we do with this legislation. We give the people a refund, and we do it in a way that is fair, broad based, and empowering.

Mr. President, I am ready to yield back the remainder of time.

Mr. MOYNIHAN. Mr. President, I believe we have yielded back the remainder of our time.

Mr. ROTH. I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—50

| | | |
|---|---|---|
| Abraham | Craig | Hatch |
| Allard | DeWine | Helms |
| Ashcroft | Domenici | Hutchinson |
| Bennett | Enzi | Hutchison |
| Bond | Fitzgerald | Inhofe |
| Brownback | Frist | Jeffords |
| Bunning | Gorton | Kyl |
| Burns | Gramm | Lott |
| Campbell | Grams | Lugar |
| Chafee | Grassley | Mack |
| Cochran | Gregg | McCain |
| Coverdell | Hagel | McConnell |
| Murkowski | Sessions | Thomas |
| Nickles | Shelby | Thompson |
| Roberts | Smith (NH) | Thurmond |
| Roth | Smith (OR) | Warner |
| Santorum | Stevens | |

NAYS—49

| | | |
|---|---|---|
| Akaka | Feingold | Mikulski |
| Baucus | Feinstein | Moynihan |
| Bayh | Graham | Murray |
| Biden | Harkin | Reed |
| Bingaman | Hollings | Reid |
| Boxer | Inouye | Robb |
| Breaux | Johnson | Rockefeller |
| Bryan | Kennedy | Sarbanes |
| Byrd | Kerrey | Schumer |
| Cleland | Kerry | Snowe |
| Collins | Kohl | Specter |
| Conrad | Landrieu | Torricelli |
| Daschle | Lautenberg | Voinovich |
| Dodd | Leahy | Wellstone |
| Dorgan | Levin | Wyden |
| Durbin | Lieberman | |
| Edwards | Lincoln | |

NOT VOTING—1

Crapo

The conference report was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

## PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. LOTT. Mr. President, there is a concurrent resolution at the desk calling for the conditional adjournment of Congress. I ask unanimous consent that the resolution be considered agreed to and the motion to reconsider be laid upon the table, all without any intervening action or debate. This has been cleared on the Democratic side.

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

The concurrent resolution (S. Con. Res. 51) was agreed to, as follows:

S. CON. RES. 51

*Resolved by the Senate (the House of Representatives concurring),* That when the Senate recesses or adjourns at the close of business on Thursday, August 5, 1999, Friday, August 6, 1999, or Saturday, August 7, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Wednesday, September 8, 1999, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, August 5, 1999, Friday, August 6, 1999, or Saturday, August 7, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 10:00 a.m. on Wednesday, September 8, 1999, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

UNANIMOUS CONSENT AGREEMENT—H.R. 2466

Mr. LOTT. Mr. President, I ask unanimous consent that all first-degree amendments in order to the Interior appropriations bill, other than the managers' amendment, must be filed at the desk by 8 o'clock this evening and one amendment be allowed for each leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## UNANIMOUS CONSENT REQUEST—H.R. 2084

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 181, H.R. 2084, the Transportation appropriations bill.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

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

CLOTURE MOTION

Mr. LOTT. Mr. President, I move to proceed to Calendar No. 181 and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

CLOTURE MOTION

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

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

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote on the Transportation appropriations bill will occur on Thursday, September 9.

I ask unanimous consent that the cloture vote occur at 9:30 a.m. on Thursday, September 9, and that the mandatory quorum under rule XXII be waived.

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

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

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

## ORDER OF BUSINESS

Mr. LOTT. Mr. President, there will be no further votes tonight. I would like to update the Members as to votes tomorrow. The Senate will resume the Interior appropriations bill for consideration of amendments. However, no further votes will occur this evening. If votes are ordered, those votes will be postponed to occur on Wednesday, September 8. I hope Senators who have

amendments to the Interior appropriations bill will stay after the vote and further debate the amendments. I see that the manager of the bill is here.

Because of the agreement we reached and because of the good work that has been done, even though we haven't completed Interior, we are now going to have a finite list from which to work. In view of that, there will not be a session tomorrow. The next votes will be on Wednesday, September 8. I urge Senators to be here on the 8th because there will be votes, perhaps on the bankruptcy bill, or amendments to Interior. Members should expect votes on that Wednesday. In addition, there will be the cloture vote on Thursday.

I particularly thank the manager of the Tax Relief Act, Senator ROTH, who did an excellent job, and the ranking member, Senator MOYNIHAN, and a lot of the dedicated staff who put in long hours to make it possible. I appreciate the cooperation of all of our Senators to get this work done so we can have this period to go home and work our States during August. I hope everybody has a very prosperous, healthy, and enjoyable State work period. I appreciate the cooperation.

I yield the floor.

Mr. THURMOND addressed the Chair.

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

Mr. THURMOND. Mr. President, I ask unanimous consent to speak for 3 minutes as in morning business.

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

(The remarks of Mr. THURMOND pertaining to the introduction of S. Res. 178 are located in today's RECORD under "Submissions of concurrent and Senate resolutions.")

## AMENDMENT TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. 1543 introduced earlier today by Senator MCCONNELL for himself and others.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1543) to amend the Agricultural Adjustment Act of 1938 to release and protect the release of tobacco production and marketing information.

There being no objection, the Senate proceeded to consider the bill.

Mr. GORTON. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1543) was considered read the third time and passed, as follows:

S. 1543

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TOBACCO PRODUCTION AND MARKETING INFORMATION.**

Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is amended by adding at the end the following:

**"SEC. 320D. TOBACCO PRODUCTION AND MARKETING INFORMATION.**

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may, subject to subsection (b), release marketing information submitted by persons relating to the production and marketing of tobacco to State trusts or similar organizations engaged in the distribution of national trust funds to tobacco producers and other persons with interests associated with the production of tobacco, as determined by the Secretary.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—Information may be released under subsection (a) only to the extent that—

"(A) the release is in the interest of tobacco producers, as determined by the Secretary; and

"(B) the information is released to a State trust or other organization that is created to, or charged with, distributing funds to tobacco producers or other parties with an interest in tobacco production or tobacco farms under a national or State trust or settlement.

"(2) EXEMPTION FROM RELEASE.—The Secretary shall, to the maximum extent practicable, in advance of making a release of information under subsection (a), allow, by announcement, a period of at least 15 days for persons whose consent would otherwise be required by law to effectuate the release, to elect to be exempt from the release.

"(c) ASSISTANCE.—

"(1) IN GENERAL.—In making a release under subsection (a), the Secretary may provide such other assistance with respect to information released under subsection (a) as will facilitate the interest of producers in receiving the funds that are the subject of a trust described in subsection (a).

"(2) FUNDS.—The Secretary shall use amounts made available for salaries and expenses of the Department to carry out paragraph (1).

"(d) RECORDS.—

"(1) IN GENERAL.—A person that obtains information described in subsection (a) shall maintain records that are consistent with the purposes of the release and shall not use the records for any purpose not authorized under this section.

"(2) PENALTY.—A person that knowingly violates this subsection shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

"(e) APPLICATION.—This section shall not apply to—

"(1) records submitted by cigarette manufacturers with respect to the production of cigarettes;

"(2) records that were submitted as expected purchase intentions in connection with the establishment of national tobacco quotas; or

"(3) records that aggregate the purchases of particular buyers.".

## PERMISSION FOR TEMPORARY CONSTRUCTION ON THE CAPITOL GROUNDS

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 167, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 167) authorizing the Architect of the Capitol to permit temporary construction and other work on the Capitol grounds, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 1608

(Purpose: To amend H. Con. Res. 167, authorizing the Architect of the Capitol to permit temporary construction and other work on the Capitol grounds, to provide that health and safety requirements, including access for the disabled, be observed)

Mr. GORTON. There is an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. MCCONNELL, proposes an amendment numbered 1608.

Page 1, line 4, delete all through line 7 on page 2 and insert the following:

"The Architect of the Capitol may permit temporary construction and other work on the Capitol Grounds as follows:

"(a) As may be necessary for the demolition of the existing building of the Carpenters and Joiners of America and the construction of a new building of the Carpenters and Joiners of America on Constitution Avenue Northwest between 2nd Street Northwest and Louisiana Avenue Northwest in a manner consistent with the terms of this resolution. Such work may include activities resulting in temporary obstruction of the curbside parking lane on Louisiana Avenue Northwest between Constitution Avenue Northwest and 1st Street Northwest, adjacent to the side of the existing building of the Carpenters and Joiners of America on Louisiana Avenue Northwest. Such obstruction:

"(i) shall be consistent with the terms of subsections (b) and (c) below;

"(ii) shall not extend in width more than 8 feet from the curb adjacent to the existing building of the Carpenters and Joiners of America; and

"(iii) shall extend in length along the curb of Louisiana Avenue Northwest adjacent to the existing building of the Carpenters and Joiners of America, from a point 56 feet from the intersection of the curbs of Constitution Avenue Northwest and Louisiana Avenue Northwest adjacent to the existing building of Carpenters and Joiners of America to a point to 40 feet from the intersection of the curbs of the Louisiana Avenue Northwest and 1st Street Northewst adjacent to the existing building of the Carpenter and Joiners of America.

"(b) Such construction shall include a covered walkway for pedestrian access, including access for disabled individuals, on Constitution Avenue Northwest between 2nd Street Northwest and Louisiana Avenue Northwest, to be constructed within the existing sidewalk area on Constitution Avenue Northwest adjacent to the existing building of the Carpenters and Joiners of America, to be constructed in accordance with specifications approved by the Architect of the Capitol.

"(c) Such construction shall ensure access to any existing fire hydrants by keeping clear a minimum radius of 3 feet around any

fire hydrants, or according to health and safety requirements as approved by the Architect of the Capitol.''

On page 3, line 4, add the following new subsection:

''(c) No construction shall extend into the United States Capitol Grounds except as otherwise provided in section 1.''

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to, and the resolution, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The amendment (No. 1608) was agreed to.

The concurrent resolution (H. Con. Res. 167), as amended, was agreed to.

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—CONTINUED

Mr. GORTON. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The order is to recognize the Senator from Virginia, Mr. ROBB.

Mr. GORTON. Is the Interior bill the subject?

The PRESIDING OFFICER. The Interior bill is the pending business.

The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, in discussions with the manager of the bill, the majority leader, and the Democratic leader, and understanding that the matter that I was going to raise would require fairly extensive debate and then a vote, thus delaying the departure of Members for the August recess—and remembering how fond Members have been of not bothering Members of this body when they were the last obstacle between leaving on the August recess and making one last vote—I have agreed with the distinguished manager of the bill, the Senator from Washington, not to offer the amendment. He has agreed to recognize me first when the bill is next before the Senate.

With that in mind, and knowing that many of our colleagues are, as I speak, heading for the airports, I will not offer the amendment I had planned to offer this evening. I will offer it when we next take up the Interior appropriations bill.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I thank the Senator from Virginia.

I had expected that we would have a vote on a point of order with respect to the section of the bill to which he refers tonight. He prefers, as is his right, to introduce a motion to strike this particular provision. That is, of course, a debatable motion and a motion that would be debated with some seriousness.

The majority leader has said the floor is available to debate amendments tonight with the exception of the Senator from Virginia.

I don't see anyone here who I believe really wants to introduce and debate an amendment tonight. We will leave a resolution or any recorded vote until Wednesday, September 8.

One Senator, Mr. SMITH from Oregon, I know, wishes to debate the Senator from Virginia. If we can find him in the next 5 minutes or so, so that there could be a real debate, then I would be delighted to have the Senator from Virginia introduce his amendment. But I think we ought to have someone on both sides here in order to do it.

In the meantime, for a few minutes at least, we are searching around to see if there are any agreed-upon amendments that I can simply introduce and have offered and passed.

I also notice the presence of the Senator from Wyoming who waited patiently this morning with the Senator from Florida for a debate on a particular amendment which might possibly end up being determined by a voice vote.

I ask the Senator from Wyoming whether his partner from Florida is available this evening.

Mr. ENZI. We are checking.

Mr. GORTON. Mr. President, I am going to suggest the absence of a quorum while we see whether or not in the next few minutes we can gather people together for at least one debate on one amendment before we adjourn for the recess.

With that, for the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I rise in strong support for S. 1292, the Interior and Related Agencies Appropriations bill for FY 2000.

As a member of the Interior Appropriations Subcommittee and the full Appropriations Committee, I appreciate the difficult task before the distinguished Chairman and Ranking Minority to balance the diverse priorities funded in this bill—from our public lands, to major Indian programs and agencies, energy conservation and research, and the Smithsonian and federal arts agencies. They have done a masterful job meeting important program needs within existing spending caps.

The pending bill provides $14.0 billion in new budget authority and $9.15 billion in new outlays to fund Department of Interior agencies, including the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs, the U.S. Geological Survey, and the Minerals Management Service, and the U.S. Forest Service, the Indian Health Service, the fossil energy and energy conservation programs of the Department of Energy, the Smithsonian, and federal arts and humanities agencies.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill totals $14.0 billion in budget authority and $14.3 billion in outlays for FY 2000. The Senate Subcommittee is $1 million in both budget authority and outlays below its revised 302(b) allocation. The bill is $35 million in BA above, and $104 million in outlays below, the bill recently passed by the House. The bill is $1.1 billion in BA and $0.7 billion in outlays below the President's budget request in large measure because the President's offsets to increased discretionary spending are not within the jurisdiction of the Appropriations Committee.

I commend the Subcommittee Chairman and Ranking Member for bringing this important measure to the floor within the 302(b) allocation. I urge the adoption of the bill, and I ask unanimous consent that the Budget Committee scoring of the bill be printed in the RECORD at this point.

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

S. 1292, INTERIOR APPROPRIATIONS, 2000 SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2000, in millions of dollars]

| | General purpose | Crime | Mandatory | Total |
|---|---|---|---|---|
| Senate-reported bill: | | | | |
| Budget authority | 13,922 | ..... | 59 | 13,981 |
| Outlays | 14,250 | ..... | 83 | 14,333 |
| Senate 302(b) allocation: | | | | |
| Budget authority | 13,923 | ..... | 59 | 13,982 |
| Outlays | 14,251 | ..... | 83 | 14,334 |
| 1999 level: | | | | |
| Budget authority | 13,800 | ..... | 59 | 13,859 |
| Outlays | 13,994 | ..... | 59 | 14,053 |
| President's request | | | | |
| Budget authority | 15,046 | ..... | 59 | 15,105 |
| Outlays | 14,992 | ..... | 83 | 15,075 |
| House-passed bill: | | | | |
| Budget authority | 13,887 | ..... | 59 | 13,946 |
| Outlays | 14,354 | ..... | 83 | 14,437 |
| SENATE-REPORTED BILL COMPARED TO: | | | | |
| Senate 302(b) allocation: | | | | |
| Budget authority | (1) | ..... | ..... | (1) |
| Outlays | (1) | ..... | ..... | (1) |
| 1999 level: | | | | |
| Budget authority | 122 | ..... | ..... | 122 |
| Outlays | 256 | ..... | 24 | 280 |
| President request | | | | |
| Budget authority | (1,124) | ..... | ..... | (1,124) |
| Outlays | (742) | ..... | ..... | (742) |
| House-passed bill: | | | | |
| Budget authority | 35 | ..... | ..... | 35 |
| Outlays | (104) | ..... | ..... | (104) |

Note—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

### MATERIALS R&D

Mr. BYRD. Mr. President, I wish to engage the Chairman in a brief colloquy regarding materials research and development efforts funded through the energy programs in the Interior appropriations bill.

Mr. GORTON. I will be happy to join the Ranking Member of the Interior Appropriations Subcommittee in such a colloquy.

Mr. BYRD. I thank the senior Senator from Washington. Much of the

progress we have made as an industrialized society has been the result of remarkable advances in materials. Improvements in commonplace and necessary items—cars, planes, computers, medical equipment—all are intricately tied to enhancements to the materials from which they are constructed. The same is true of our energy sources and energy production. Our power plants—the turbines, boilers and pollution controls that supply the electricity that powers our economy—are only as effective and reliable as the materials we use to build them.

Mr. Chairman, you and the Committee have done an admirable job in fashioning a budget that points this Nation toward new technologies for generating electricity in the 21st Century. The Committee's proposal supports a new concept for power generation called ''Vision 21.'' This ''Vision 21'' initiative excites our imagination over the possibility of a pollution-free power plant. But the success of ''Vision 21''—or, for that matter, any advances in tomorrow's energy technologies—will depend on the development of stronger, more durable, and more reliable materials.

Your support, Mr. Chairman, has been critical in ensuring that funding for materials research and development is included in this bill. Should the Department of Energy reassess its funding needs and priorities in order to move this research effort forward, would you give consideration to a request from the Department to redirect a portion of its funding to further this effort?

Mr. GORTON. I thank the distinguished Senator from West Virginia for his endorsement of this aspect of energy research. As the Senator mentioned, we have included a modest increase in materials research in the fossil energy budget for this bill above the enacted level. I am aware of the excellent research being done in the Senator's home state—at the Federal Energy Technology Center—as well as in other Energy Department laboratories. It is the intent of the Committee to continue to work with the Department of Energy to seek opportunities to enhance and strengthen this important area of research in balance with the other high-priority research. In this regard, the Committee would certainly give careful consideration to such a reprogramming request of the Department of Energy.

GLEN ECHO PARK CONSTRUCTION FUNDS

Ms. MIKULSKI. I rise with my colleague from the State of Maryland to engage the Chairman and Ranking Minority Member of the Interior Appropriations Subcommittee in a colloquy regarding the funds included in the Senate bill for Glen Echo Park, a unit of the George Washington Parkway in Maryland.

Mr. GORTON. I would be pleased to join with the Senior Senator from West Virginia in a colloquy with the esteemed members of the Senate delegation from Maryland regarding Glen Echo.

Ms. MIKULSKI. I thank the Chairman. Senator GORTON and Senator BYRD, is it the intent of the Appropriations Committee that the funds provided in the bill for Glen Echo Park in the construction account of the National Park Service be used for rehabilitation and replacement of facilities at Glen Echo Park?

Mr. GORTON. Yes, it is.

Mr. BYRD. I concur with the Chairman.

Ms. MIKULSKI. I thank the Chairman and Ranking Member.

Mr. SARBANES. Senator GORTON and Senator BYRD, is it also the intent of the Appropriations Committee that the funds provided for Glen Echo Park in the construction account of the National Park Service represent the first phase of an estimate $18 million restoration effort, whose total costs will be shared equally by the National Park Service, the State of Maryland and Montgomery County?

Mr. GORTON. Yes it is.

Mr. BYRD. I concur with the Chairman.

Mr. SARBANES. I thank the Chairman and Ranking Member.

OPERATIONAL EXPENSES AT OUR NATIONAL PARKS

Mr. HOLLINGS. Mr. President, I rise today to discuss a project that the Senate has been working on for over two decades, the Congaree Swamp National Monument. When this National Monument was established in 1976, its purpose was to educate present and future generations. Mr. President, through the leadership of the Chairman and Ranking Member of the Interior Appropriations Subcommittee, we have come a long way. In FY'98, funding was provided to build and pave a new entrance road and with FY'99 funds, the park's first visitor facility, a 10,300 sq. ft. education and administration facility is near completion. The total estimated cost for these two projects was $5.814 million. Through a partnership with the National Guard, Richland County, and a local non-profit organization these projects will be built for a total cost of $2.16 million. That is a savings of $3.65 million to the American tax payer.

Now that a new administration facility is close to being completed, we face the difficult task of providing adequate staffing levels at the Congaree National Monument. Increased staffing levels are needed at this monument to ensure safety and to provide education to the increasing number of park visitors. While I know earmarking operational funds for specific park sites is not the best course of action, I do want to bring to light the problem that this National Monument will be facing in the near future. In 1996, an on-site operations review by seven Atlantic Coast Cluster Superintendents concluded that ''the [park's] staffing level is inadequate to provide minimum resource protection and visitor services''. The report continued with the statement that ''the park staff, with considerable support from an excellent volunteer cadre, is doing a valiant job of operating the park to the best of their ability, but lack the same breadth of resources and facilities in other National Park Service sites. * * *'' More than 300-school group program requests were denied last year because of the lack of staff. A large percentage of park visitors leave without learning the significance of the park due to the lack of programs. The shortage of staff will become even more critical with completion of the new infrastructure and increased visitation.

Mr. GORTON. I am well aware of the shortfall when it comes to operation expenses, not only at the Congaree Swamp National Monument, but at many National Park Service sites. When crafting the FY 2000 Interior Appropriations bill, we took staffing needs and operation expenses into account and provided $1,355,176,000, which is an increase of $69,572,000 over the fiscal year 1999 enacted level.

Mr. HOLLINGS. With an additional $69.5 million, is there any funding provided that would help the Congaree Swamp National Monument in its attempt to address the need for additional staff?

Mr. GORTON. While the distinguished Senator from South Carolina alluded to the problem of earmarking specific operational expenses earlier, I will say that of the total amount provided, $27,035,000 is for a park operations initiative focused on parks with critical health and safety deficiencies, inadequate resources protection capabilities and shortfalls in visitor services.

Mr. HOLLINGS. If the Congress Swamp National Monument is deemed to have critical health and safety deficiencies, inadequate resources protection capabilities or shortfalls in visitor services, can a portion of this $27 million be used to hire additional staff?

Mr. GORTON. I understand that the National Park Service has already targeted these funds for specific park sites.

Mr. BYRD. Mr. Chairman, I also understand the frustration that arises when National Park Service sites are under staffed. In fact, a number of National Park Service sites in West Virginia have unmet operational and staffing needs. I can assure the distinguished Senator from South Carolina that if the National Park Service deems the Congress Swamp National Monument to be in need of additional staff to carry out its stated mission the Committee would give careful consideration to providing additional funds in the future to increase staffing levels at this site. It is important that visitors to all our National Park sites come away with the education and appreciation that these sites deserve.

Mr. HOLLINGS. I thank both the Chairman and Ranking Member for everything they have done in support of

our National Parks. I also want the National Park Service to work with the Congress Swamp National Monument, as well as other park sites, to make sure that they are adequately staffed to carry out their stated missions.

FOREST SERVICE RESEARCH

Mr. BYRD. I rise with my colleagues on the Appropriations Committee from Wisconsin and Vermont to engage the Chairman of the Interior Appropriations Subcommittee, the Senior Senator from Washington, in a colloquy regarding Forest Service research and the intent of the Committee on Appropriations.

Mr. GORTON. I would be pleased to enter into a colloquy with the Ranking Member of the Interior Subcommittee and with the distinguished Senators from Wisconsin and Vermont who also serve on that Subcommittee to provide further guidance and clarification as to the Committee direction included in the fiscal year 2000 Interior appropriations bill and accompanying report.

Mr. BYRD. Mr. Chairman, S. 1292, a bill making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes, includes a net reduction of $10,000,000 below the fiscal year 1999 enacted level (from $197,444,000 to $187,444,000). Is this the total decrease included in the bill for this program?

Mr. GORTON. While the overall reduction is $10,000,000, within the total funding level the Committee has provided increases above the fiscal year 1999 level of (1) $1,130,000 for the harvesting and wood utilization laboratory in Sitka, Alaska, (2) $2,000,000 for forest inventory and analysis, (3) $500,000 for hardwood research and development at Purdue University, (4) $600,000 for the development of the National Center for Landscape Fire Analysis at the University of Montana, and (5) $700,000 for the CROP program. Therefore, other activities of the Forest Service research are to be reduced by a total of $14,930,000 below the enacted level.

Mr. BYRD. What guidance has the Committee provided the Forest Service with respect to how the Forest Service should reduce its other research activities by $14,930,000?

Mr. GORTON. The report accompanying S. 1292, Senate Report 106–99, stresses the concern of the Committee that the research program of the Forest Service has lost its focus on its primary mission—forest health and productivity—and directs the Forest Service to reduce those areas not directly related to enhancing forest and rangeland productivity. There are existing research programs outside the agency that have greater expertise and objectivity than the Forest Service; especially beyond the disciplines of forest health and productivity.

Mr. BYRD. I am concerned that without further elaboration on this matter the Forest Service may misinterpret the Committee's intent and take reductions that are not in keeping with the expectations of the Committee. It would be useful to expand upon the guidance provided in the report in order to avoid any misunderstandings as to the will of the Senate.

Mr. GORTON. Your point is well taken, and I welcome the opportunity to provide additional information. The expectations of the Committee are that the Forest Service will not provide any increased funding for activities not expressly stated as increases in Senate Report 106-99. In other words, the Committee has not provided any increased funding for the climate change technology initiative or for global climate research. Nor has the Committee provided any increased funding in this account for Forest Service research on invasive species, fire science, watershed science, inventory and monitoring, or recreation, wilderness and social science. The Committee also has denied any increases for fish and wildlife habitat research programs, for the application of mathematical programming and computer simulation tools in national forest planning, and for forest health monitoring research.

Beyond disallowing any of these increases, the Committee expects reductions in research funding to be targeted in those research areas that are not directly related to its core mission of forest health and productivity. In addition to social science and recreation research, which are well outside the expertise and core mission of the Forest Service, research not directly related to forest health and productivity includes, but is not limited to, research on wildlife, fish, water, and air sciences; global climate change and wilderness research. Beyond these research areas, other funding projects that the Committee feels are appropriate for reductions include the administrative costs of the Washington office (funded at $11.261 million in fiscal year 1999) and support for so-called ''national commitments'' (funded at $5.744 million in fiscal year 1999).

Mr. BYRD. I thank the Chairman for explaining the expectations of the Committee regarding forest service research. Based on this clarification, is it the Committee's intent that the Forest Service will maintain funding at the fiscal year 1999 level for projects NE–4557 (Disturbance, Ecology and Management of Oak-Dominated Forests), NE–4751 (Forest Engineering Research—Systems Analysis to Evaluate Alternative Harvesting Strategies), NE–4353 (Sustainable Forest Ecosystems in the Central Appalachians), NE–4701 (Efficient Use of the Northern Forest Resources), NE–4803 (Economics of Eastern Forest Use), and NE–4805 (Enhancing the Performance and Competitiveness of the U.S. Hardwood Industry)? All of these projects are in West Virginia and contribute directly to forest health and productivity.

Mr. GORTON. Yes, it is the intent of the Committee that these projects be funded for fiscal year 2000 at their fiscal year 1999 funding levels.

Mr. LEAHY. In that same vein, is it the Committee's intent that the Forest Service will maintain funding at the fiscal year 1999 level for project NE–4103 (The Role of Environmental Stress on Tree Growth and Development)? This project is conducted at Burlington, Vermont, and provides information directly related to forest health and productivity.

Mr. GORTON. Yes, it is the intent of the Committee that this project be funded for fiscal year 2000 at its fiscal year 1999 funding level.

Mr. KOHL. Mr. President, I am pleased that the distinguished Senators from Washington and West Virginia have brought up the issue of Forest Service research. As they have noted, there is some significant research being conducted by the Forest Service, vital to forest health management and forest productivity that the Committee supports. Am I correct in my understanding that it was the Committee's intention in its discussion of Forest Service research in the Committee's report to maintain for fiscal year 2000 the forest products utilization research and supporting research activities conducted at the Forest Products Lab in Madison, Wisconsin, at the fiscal year 1999 funding level?

Mr. GORTON. The Senator from Wisconsin is correct.

Mr. KOHL. Cutting these research programs would dramatically decrease the Nation's ability to conserve scarce forest resources. It would eliminate work on major research issues in western softwood forests and in eastern hardwoods. Forest products research defrays forest management costs, increases fiber availability to meet the Nation's need for wood and fiber, speeds the acceptance of new and more efficient utilization technologies, and enhances the development of technologies that will restore economic vitality to forest-dependent communities. Curbing forest product research would also eliminate technical expertise on wood use, particularly in the area of housing.

Mr. GORTON. I want to thank Senator KOHL for highlighting the vital work of the Forest Products Lab and reiterate the Committee's support for its research program.

NATIONAL PARK SERVICE CONCESSION REVIEW

Mr. STEVENS. Will the distinguished chairman of the subcommittee yield for a question?

Mr. GORTON. I would be happy to yield.

Mr. STEVENS. As the Senator from Washington is aware, the National Park Service is responsible for the management of much of the land along the Georgetown waterfront in the District of Columbia. As a regular visitor to this area, I have been disappointed with the condition and appearance of much of the land under the management of the National Park Service, particularly the area surrounding Thompson's boathouse, the boathouse itself, and the nearby lands that are

currently used for boat storage. These lands are adjacent to the confluence of Rock Creek and Potomac River, making their care and maintenance critical to the protection of the watershed.

I understand that upkeep and maintenance of the boathouse is the responsibility of the concessioner that manages the boathouse. Does the Chairman of the Subcommittee feel that it would be appropriate for the National Park Service to review the concession contract for the boathouse, and the performance of the concessioner under that contract, to determine whether the concessioner should be compelled to make a greater effort to maintain and rehabilitate the boathouse and appurtenant lands?

Mr. GORTON. I agree that such a review would be appropriate.

Mr. STEVENS. Does the Chairman also agree that, to the extent appropriate in meeting its responsibilities and obligations, the National Park Service should review the maintenance and rehabilitation needs for this area and strongly consider allocating additional resources to make any needed improvements?

Mr. GORTON. In the past several years, the Committee has provided the Service with a substantial amount of additional funds of repair and rehabilitation of park facilities and properties. I agree that it would be appropriate for the Service to consider allocating a portion of these resources for the purposes noted by the Senator from Alaska.

Mr. STEVENS. I thank the Chairman of the Subcommittee.

MAGGIE WALKER NATIONAL HISTORIC SITE

Mr. ROBB. Mr. President, I like to take a few moments to express my concern about funding for the Maggie Walker National Historic Site in Richmond. While construction funding was included in the budget submitted by the National Park Service, funding was not included in the Interior appropriations bill before us today. I want to make sure that the managers of this legislation are aware of just how important the Maggie Walker project is to both the Richmond community and to our nation. I would also like to urge them to provide this funding.

Maggie Walker, who lived in Richmond from her birth in 1867 until her death in 1934, epitomized triumph in the face of adversity. In an era that glorified male achievement, and in a part of the nation that did not encourage African American leadership, she stood out as a very successful member of society despite the fact that she was both female and African American.

Ms. Walker both succeeded within the system and pushed for change. She established a newspaper. She organized a student strike to protest unequal graduation ceremonies. She founded a bank and was the first woman in the nation to serve as president of a bank. She was also actively involved in founding the Richmond chapter of the NAACP, and throughout her life, Maggie Walker championed humanitarian causes.

The Maggie Walker National Historic Site in Richmond is comprised of the Walker home, and several adjacent support buildings. The Walker residence itself was built in 1883 and purchased by the Walker family in 1904. The residence served as Ms. Walker's home untile the year of her death. The Walker family sold the home to the National Park Service in 1979. Furnishings throughout the home are original family pieces.

The National Park Service budget request is necessary to literally protect the site from destruction, as well as for safety and historic preservation. Funding will support a fire suppression system for the main Walker home, and will restore the exteriors of the adjacent support buildings. These structures will be used for interpretive and education facilities, and for museum storage.

Mr. WARNER. I join my colleague in this effort. Mr. President, the construction funding request by the National Park Service budget would help protect and expand the facility to provide a better legacy for our children. Educational programs for all children, especially the children of Virginia, will serve as a living reminder of the prejudice that took place in our country at the turn of the century, and Maggie Walker's life will provide a strong role model for present and future generations seeking to overcome adversity.

Maggie Walker urged women to work together to advance their place in society. She said, ''If our women want to avoid the traps and snares of life, they must band themselves together, organize, acknowledge leadership, * * * and work * * * for themselves.'' Maggie Walker also stressed the empowerment of minorities in the business field. She recognized the ''need of a savings bank, chartered, officered, and run by the men and women of this [community] * * * Let us have a bank that will take the nickels and turn them into dollars.'' The Maggie Walker House symbolizes the persistence of an individual in the face of prejudice. For citizens in Richmond, the life of Ms. Walker, and her National Historic Site, are a daily inspiration.

I hope the construction money allotted to the Maggie Walker National Historical Site in the National Park budget and approved by the President will be provided. I thank my colleagues for considering this matter, and I'd appreciate hearing the managers' views on this project.

Mr. GORTON. I agree with the Senators from Virginia that the life of Maggie Walker is indeed an inspiration. While we're facing tough funding constraints and did our best to meet National Park Service needs in the State of Virginia. I will work with the senior senator from West Virginia to see what can be done for the Historic Site.

Mr. BYRD. I agree with the Senator from Washington that this project is important, and I will do what I can to the extent that funds become available.

VIRGINIA BEACH MINERALS MANAGEMENT SERVICE

Mr. ROBB. Mr. President, the senior Senator from Virginia, Senator WARNER, and I would like to bring to the Managers' attention a serious concern involving the City of Virginia Beach and the Minerals Management Service of the Department of Interior. In my view, the city has been unfairly treated, and I hope we can rectify this matter during conference negotiations on the Interior Appropriations Bill.

Mr. WARNER. I support the view of my colleague. We wish to briefly review the issue for the Managers and explain why we believe that an injustice has been done to the City of Virginia Beach.

For past 25 years, the U.S. Army Corps of Engineers, in conjunction with the City, has been working to complete the Sandbridge Beach Erosion Control and Hurricane Protection Project, one of the region's highest priorities. Early in 1998, several Nor'easters struck the east coast and literally demolished Sandbridge Beach, which is a very important barrier island that provides protection for the Back Bay National Wildlife Refuge. Forty homes were lost to the storms, and more than 300,000 cubic yards of protective beach sand were washed away. As a result, there was an immediate, critical need to replenish the beach. Although the Corps has the responsibility of annual renourishment of Sandbridge, as it is a federally-authorized project, the City advanced the money to replenish the beach because it was in a state of emergency.

I wish to emphasize that point. Instead of waiting for the Congress to appropriate the funds to the Corps, the City spent $8.1 million of its own money for the Sandbridge Beach Renourishment, which is an option Congress allowed the City under the Water Resources Development Act.

The Minerals Management Service (MMS) became involved when the Corps selected a location to mine the sand for Virginia Beach. The location selected, the bottom of the ocean three miles off the coast, is an area legally designated as the ''outer continental shelf.'' Pursuant to the 1994 amendments to the Outer Continental Shelf Lands Act (OSC), the MMS negotiates agreements for the right to extract minerals from the outer continental shelf. Under this authority, the MMS made a decision, which we believe to be both unfair and poor policy, to charge the City of Virginia Beach for the sand mined.

The MMS has the authority to change its decision, and I believe this would be the right thing to do. First, with respect to the discretion of the MMS, the MMS's own Proposed Policy and Guidelines state that:

The new law provides that the Secretary may assess a fee. This affords discretion not to assess a fee on a case-specific basis.

Mr. GORTON. So it's clear that the MMS could have opted not to charge the City of Virginia Beach?

Mr. ROBB. That's right. More important, we believe that not charging the city would have been the best policy decision. First, the sand paid for by the city protected federal land. MMS guidelines state that ''when OCS sand is used for protection of Federally-owned land (e.g. for military bases, national parks, and refuges), a fee would not be assessed.'' That is the case in this instance.

Sandbridge beach is crucial to protecting the Back Bay National Wildlife Refuge, which is federally owned. The fragile beach acts as a barrier island as the fresh water/brackish environment is three feet lower than the ocean adjacent to Sandbridge. If this beach is not maintained, an inlet could form, changing the ecology to a salt water estuary causing great harm to the Refuge and also disrupting one of the potable water sources for the City of Chesapeake. Additionally, the project is directly adjacent to the Dam Neck Fleet Combat Training Center. The beach at this Center was recently renourished with an 850,000 cubic year nourishment project. Sandbridge acts as a feeder beach for the Dam Neck area and also provides protection to the flank of the training Center. In short, the City of Virginia Beach used its own funds to protect federal property. Compensation is only fair.

I'd like to add that fair compensation is something the City of Virginia Beach had assumed in good faith would be forthcoming. The City acted in an emergency to protect the beach. This beach is a Congressionally-authorized project and is being constructed by the U.S. Army Corps of Engineers led the city to believe that it would be compensated. In fact, the Corps has already used approximately 2 million of its federal dollars to design the project, is acting as construction manager, and considered this renourishment to be the first phase of this project authorized by Congress in the 1992 Water Resources Development Act.

In addition, the City of Virginia Beach was assessed a free by the MMS for mining the sand used to construct the federal project at Sandbridge solely because the City, not the federal government, fronted the cost of the construction.

Mr. GORTON. What is the regulation the MMS used to assess this fee?

Senator WARNER. There is only a guidance document, which was drafted in October 1997 by the MMS under the title ''Proposed Policy and Guidelines on Fees for Outer Continental Shelf Resources Used in Shore Protection and Restoration Projects''. There have been no further rules promulgated since that time, and the City of Virginia Beach is the first public body and only public body to be assessed this fee subsequent to the issues of the ''Proposed Policy''.

Mr. GORTON. My understanding is that the purpose for establishing fees for mineral extraction from the outer continental shelf was to assure that the citizens were compensated for allowing the use of public resources by profit-seeking endeavors.

Mr. ROBB. My colleague is correct. But I wish to stress that this case was not a profit-seeking endeavor, but an emergency situation to replace sand on a federally-authorized beach that was washed away during a severe storm.

Mr. BYRD. Are there any instances of the MMS waiving the fee?

Mr. WARNER. Yes, there are. The MMS waived the fee for two other requests for use of OCS sand for shore protection projects sponsored by the corps. One was in Duval County, FL, and the other in Myrtle Beach, SC. For these two cases, the MMS ruled that project-related activities had progressed to the point that an ''assessment of a fee for the OCS sand resources could have delayed or prevented project construction''. The MMS therefore determined that waiving the fee would be in the best interest of the public in those two cases. In the case of Sandbridge Beach, we believe that it was in the best interest of the public for the MMS to waive the fee as it not only is a Congressionally authorized project, but it also protects a federally owned wildlife refuge, the Back Bay National Wildlife Refuge.

Mr. GORTON. What was the nature of the fee assessed to the City by the MMS?

Mr. ROBB. The City of Virginia Beach was assessed a fee of $0.18 per cubic yard, and they were forced to enter into a lease agreement with MMS before being allowed to obtain critical sand for the emergency beach erosion project. The money paid in MMS fees, which totaled $198,000, would have allowed the City to place an additional 40,000 cubic yards of sand on this badly eroded beach.

In conclusion, we hope our colleagues agree that the MMS should have utilized their option to waive the fee for sand replenishment in this emergency situation, and as a result, the City should be reimbursed for protection Sandbridge Beach. Not only did the MMS assess a fee on a federally-authorized project which protects federal land, but they took advantage of the City during an emergency situation. Under the time constraints the City had no other alternative to find sand elsewhere, and was forced to pay the fee. It is for these reasons that my colleague and I believe that the MMS has an obligation to reimburse the City of Virginia Beach for this incorrectly assessed fee.

Mr. GORTON. I am sympathetic to our colleague' request. I am also aware that language authorizing repayment of the fee charged to the City of Virginia Beach is included in this year's Water Resources Development Act. We are facing very tough funding constraints this year, but if the senior Senator from West Virginia agrees, we'll work together to help the city if possible.

Mr. BYRD. I am also sympathetic to the request, and I will support that effort.

Mr. WARNER. I thank the Senator from Washington and the Senator from West Virginia. Senator Warner and I want to reemphasize that this is a situation of basic fairness, and action is needed to correct an injustice imposed by the federal government. We ask that if funds become available during the House-Senate Conference, that the Managers provide $198,000 to reimburse the City of Virginia Beach. We thank our colleagues.

CUMBERLAND ISLAND

Mr. CLELAND. I rise to engage the Chairman and Ranking Member of the Interior Appropriations Subcommittee in a colloquy regarding Cumberland Island National Seashore, which is located just off the coast of Georgia. As Senator GORTON and Senator BYRD are aware, the Congress recently provided funding for an important land acquisition for Cumberland Island, which will ensure the protection of lands on Cumberland Island for generations to come. In conjunction with this land acquisition, I worked with the National Park Service, residents of the island, and members of the historic and environmental communities to reach a unanimous agreement on the management of Cumberland Island National Seashore. The agreement provides a framework for the proper management of the cultural and wilderness resources on the island. I strongly supported the development of this agreement and am committed to ensuring that this agreement is followed regarding the management of Cumberland Island National Seashore. Do the Chairman and Ranking Member of the Interior Appropriations Subcommittee share my strong support for the implementation of the agreement?

Mr. GORTON. I was pleased that the Georgia delegation, the Administration and a variety of local interests were able to reach agreement with regard to the preservation of lands and historic properties on Cumberland Island, and am pleased that we were able to provide a considerable amount of funds to implement the first phase of the agreement. Your leadership has been instrumental in this matter, and I appreciate your efforts to provide for the lands and management of the Cumberland Island National Seashore. I look forward to working with you to the extent additional funds are necessary to implement the agreement, recognizing the difficult fiscal limitations under which the Committee must operate.

Mr. BYRD. I concur with the Chairman and would support Congressional efforts to provide additional compliance actions regarding the agreement, if necessary. Your involvement in Cumberland Island has been critical in protecting and preserving these precious resources in a manner that balances National and local interests.

Mr. CLELAND. I thank the Senators for their support and kind words.

VERMONT AGENCY OF TRANSPORTATION ELECTRIC VEHICLE LEASE

Mr. JEFFORDS. Mr. President, I thank the Subcommittee on Interior, and particularly Chairman GORTON, for his excellent work on the FY 2000 Interior and Related Agencies Appropriations bill. I would especially like to thank the Chairman for encouraging the Department of Energy to consider the Vermont Agency of Transportation electric vehicle lease proposal. I would just like to clarify that the committee's recommendation refers to a request for $400,000 from the Vermont Agency of Transportation to develop an electric vehicle program, including the purchase and demonstration of electric vehicles, the creation of charging stations, reports documenting vehicle use, and the collection of experiential data, for the State of Vermont and its municipalities.

Mr. GORTON. I thank the Senator from Vermont for his kind remarks. Within available funds, the Committee encourages the Department of Energy to provide funding for the Vermont Agency of Transportation Vehicle Lease Program.

PONCA TRIBE OF NEBRASKA USER POPULATION

Mr. KERREY. Mr. President, I am concerned the Ponca Tribe of Nebraska funding for health services is not adequate to provide these services to tribal members. As the Chairman may know, the Ponca Tribe was terminated in 1962 and restored as a federally recognized Tribe in 1990. At the time of restoration, the Tribe's user population was estimated at 654 and was allocated a $1.2 million budget.

In January 1998, the Ponca Tribe established the Ponca Health and Wellness Center in Omaha, Nebraska. This clinic provides quality medical, dental, pharmaceutical, and community outreach health services to members of all federally recognized Tribes. As a result of this new clinic, the user population has increased to over 2000 users without a budget increase to address the larger population. Does the distinguished Senator from Washington agree this problem must be addressed?

Mr. GORTON. I understand the concerns of the Senator from Nebraska regarding the need for resources to address the increase in user population for the Ponca Tribe Health and Wellness Center. It is important the Ponca and other Tribes be able to continue providing quality health services for its members. I believe the IHS should examine this issue and identify ways to help the Ponca and other Tribes, which have experienced unusual increases in user populations.

Mr. KERREY. Clearly, the Ponca Tribe needs resources in order to meet the health needs of an increased user population. It is my hope the Indian Health Service (IHS) will address this unusual increase with its resources. I encourage the IHS to provide increased funding to any Tribe that has experienced an increase in the user population of 50 percent or more over fiscal years 1996–99 to the extent possible within existing resources.

MARI SANDOZ CULTURAL CENTER $450,000 FUNDING REQUEST

Mr. KERREY. Mr. President, I wish to ask the distinguished floor manager a question.

Mr. GORTON. Certainly. I am happy to respond to my colleague from Nebraska.

Mr. KERREY. I realize that this year, you and Ranking Member BYRD are facing a challenging appropriations season with tight budgetary constraints. I appreciate your hard work and all that you have done. However, I wanted to bring to your attention a very important project for the State of Nebraska, especially the western part of the state, the Mari Sandoz Cultural Center at Chadron State College in Chadron, Nebraska. Mari Sandoz wrote extensively about the Great Plains—about fur traders and homesteaders, about cattlemen and grangers; about the Cheyenne and Oglala Sioux. She captured in her writings a special time and place. Chadron State College and the Mari Sandoz Society are developing a cultural center to preserve, protect and exhibit a collection that is associated with Mari Sandoz's life and work. I had hoped that we would be able to find $450,000 to assist with this project.

Mr. GORTON. I am aware of the Senator's interest in this project and its importance to Nebraska's history and heritage. We were unable to include funding for one of the accounts where this project might be supported. However, I will work with the Senator to see if we can identify funds for this project in the future.

Mr. KERREY. I thank the Chairman for his assistance. I appreciate the consideration of this important project, and I know the people of Nebraska, especially western Nebraska, will also be more appreciative.

FOREST SERVICE RECONSTRUCTION AND MAINTENANCE

Mr. KOHL. I rise to engage the Chairman of the Interior Appropriations Subcommittee, the Senator from Washington, Senator GORTON, in a colloquy on an item in the Forest Service budget which needs some clarification. The fiscal year 2000 budget justification submitted by the administration included $300,000 for planning and design of a new facility at the Forest Products Lab in Madison, WI, to accommodate a move of the Forest Service's regional office from Milwaukee to Madison. However, on April 15, 1999, during a hearing in the Appropriations Committee on the Forest Service budget Mike Dombeck, the Chief of the Forest Service, reiterated what the Forest Service has told me in the past: The Forest Service has withdrawn the proposal to move its Milwaukee office. The idea of moving the regional office from Milwaukee first came up in response to concerns about the rent in Milwaukee. Since then General Services Administration (GSA) has indicated that by fiscal year 2000, the rent in Milwaukee will be reduced by 18 percent, eliminating the need for the move.

During the Appropriations Committee's markup, we inadvertently included $300,000 for the proposed move in the Forest Service's reconstruction and maintenance budget. Since the Forest Service and GSA have confirmed that the move will not and should not go forward, the Committee is directing the Forest Service to use the $300,000 in this account at the Forest Products Lab to expand the planned heat, ventilation and air conditioning work already scheduled to occur at the lab. The funding should be used to replace air conditioning equipment for buildings 33 and 34. The current equipment is more than 30 years old and is in poor condition, lacking automated controls so overtime staffing is needed to operate the equipment on weekends. Replacement of the air conditioning chillers in these buildings will be more energy efficient and will reduce overtime costs.

Mr. GORTON. I appreciate the Senator from Wisconsin raising this issue. Leaving the regional office in Milwaukee will save the Forest Service $4.5 million slated for future years spending to build a new facility in Madison. The Committee agrees that using the $300,000 in the fiscal year 2000 budget to improve the HVAC systems at the Forest Products Lab is a far better use of these funds.

Mr. KOHL. I appreciate the Senator from Washington's courtesy and look forward to working with him in conference to ensure that this money is spent as the Committee intended.

GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

Mr. BENNETT. Mr. President, there are several provisions in this bill that result directly from the establishment of the Grand Staircase-Escalante National Monument. First, we have identified $300,000 within the amount allocated for the monument planning and decision making process. In FY 1999, $500,000 was provided to the two counties, and we anticipate that there will be funds available from the fee demonstration program that could return them to the FY 99 level.

Additionally, we provided $100,000 to implement the ''Garfield-Kane County Partnership Action Plan.'' This action plan is the result of a process that began last year to help the counties and communities that have been most impacted by the monument designation. This is not a welfare program; this is to help them with reorganization leading to economic self-sufficiency. The Department of Interior, to its credit, has supported this effort and provided funds for a conference that was held in Kane County earlier this year. The conference was mediated by the Sonoran Institute. The conference report is the basis for the funding.

The regional entities have formed a planning commission, the Partnership

Task Force, and are talking with the Utah Five County Association of Governments (AOG) to establish a new and independent entity within that organization, which will provide administrative support and organization. Direction will come from a board composed of elected county and city officials from Kane and Garfield Counties and from portions of the Arizona Counties (Coconino and Mohave), which are north and west of the Colorado River. This also includes the Kaibab Paiute Indian Reservation.

It is my understanding that the BLM will fund the Partnership Task Force through the Five County AOG and will cooperate in developing recommendations for the partnership action plan and specific programs. I would ask the Chairman if it is his expectation that the agency will periodically report on the progress being made?

Mr. GORTON. It is, indeed, my expectation that the Department will work with the organization in getting started and will provide a progress report after ninety days, and a full report at the end of the fiscal year.

Mr. BENNETT. I thank the Chairman for his support.

EVERGLADES FUNDING ASSURANCES

Mr. MACK. Mr. President, I rise today with my colleague from Florida, Mr. GRAHAM, to address briefly the issue of Everglades restoration and land acquisition funding. We had joined with the President in requesting slightly more than $100 million for land acquisition in Everglades National Park, state assistance grants, infrastructure investment, and modified water deliveries to the Park and Florida Bay. This funding is critical to keep the restoration effort on budget, on schedule, and consistent with the Congress' commitment in 1997 to fully fund Everglades restoration.

Mr. GRAHAM. Mr. President, following on the comments of my colleague from Florida, the Committee did not see fit to appropriate the full amount of these requested funds due to several concerns outlined in the Committee's report. First, the report addressed the $40 million in unobligated balances at the Department of Interior that have already been appropriated by Congress for the Everglades restoration effort. Further, the Committee echoed concerns raised in a recent GAO report regarding a more expedient dispute resolution mechanism and an integrated strategic plan. I would ask the distinguished Chairman of the Subcommittee if this—in general—reflects the concerns of the Subcommittee as outlined in the report?

Mr. GORTON. That is correct, I also note that the Subcommittee's 302(b) allocation was more than $1.1 billion below the Presidents request, which compelled the Subcommittee to provide lower funding levels for land acquisition in order to protect core operating programs.

Mr. MACK. Mr. President, the reservations of the Subcommittee are valid ones and my colleague from Florida and I are willing to be helpful however we can in addressing these concerns. I would say to the Chairman that we are making progress on these issues. The Department of the Interior tells me it is working closely with the State of Florida to remove the barriers to allocating the unobligated land acquisition and restoration balances. The Department assures these funds will be obligated by the end of this fiscal year.

Mr. GRAHAM. If I may, let me follow on by saying the Department further assures us they are making good progress on the concerns raised by the GAO report and echoed by the Committee. In fact, on July 1 of this year, the administration released the Everglades Restudy—which is an extremely detailed 20-year plan for restoring the Everglades—to the Congress.

Mr. MACK. I would ask the Chairman of the Subcommittee if he would be willing—given the movement toward resolving his concerns since release of the Committee's report—if he would be willing to work with us in Conference to increase the overall Everglades funding from the levels currently in the bill?

Mr. GORTON. I thank my friends from Florida for their comments. Clearly the Everglades restoration effort is an important national priority. I can anticipate that funding for these accounts will likely be discussed further during the Conference with the House. I can assure my friends that I will take a close look at actions taken by the Department in response to the Committee's concerns and will work to ensure the funding levels are adequate to keep the restoration effort on track for the next fiscal year.

Mr. MACK. I thank my colleague for his response and assurances on this important issue. I would also like to mention briefly the funding level for the South Florida Ecosystem Restoration Task Force. It is my understanding the Task Force's funding has been kept steady at $800,000 since it was statutorily authorized in 1996. I want to bring this matter to the Chairman's attention because of the restraints this low funding ceiling is placing on the Task Force's ability to carry out its mission in South Florida.

Mr. GRAHAM. I would continue by adding that the Task Force is the entity responsible of implementing the recommendations of the Committee with respect to the dispute resolution mechanism and the strategic plan. Further, cost of living adjustments are forcing staff layoffs and seriously eroding the Task Force's ability to do its job. I would ask the Chairman to consider increasing the Task Force's budget to the requested $1.3 million during the Conference with the House.

Mr. GORTON. I thank my friends from Florida for bringing this matter to my attention. I will take a look at the funding levels for the Task Force as we proceed to Conference.

Mr. MACK. I thank my friend from Washington and yield the floor.

TROUT BROOK VALLEY

Mr. LIEBERMAN. Mr. President, I rise to offer a few remarks on an amendment I have at the desk. The amendment, which I intend to withdraw, would provide a $2 million increase in funding for the Parks Service Account. This money would be used to help a dedicated coalition of Connecticut citizens, conservation groups, and local and state government acquire 668 acres in the Trout Brook Valley.

The Trout Brook Valley, like much of the remaining open space in Connecticut, is currently under threat of development and the Aspetuck Land Trust is trying to save it. They are not asking the Federal Government to foot the entire bill in the effort to preserve this countryside for the enjoyment of future generations. Far from it, the locally-led effort to save Trout Brook Valley is convinced that they can and will raise $10.5 million of the $12.5 million dollars that the property will cost. My amendment would have provided Federal matching funds equal to less than one-sixth of the total cost of acquiring this land for conservation.

I am deeply disappointed that the current Interior Appropriations bill allocates no funding to the stateside portion of the Land and Water Conservation Fund. The Trout Brook Valley project represents an excellent example of why we need to appropriate adequate resources for stateside portion of the Land and Water Conservation Fund, which tragically has gone unfunded since 1995. I am encouraged to learn, however, that an agreement to appropriate funds to the stateside LWCF account is currently under discussion. Am I correct in that understanding?

Mr. GORTON. That is correct. I point out that this project is not authorized as a federal acquisition project. In addition, stateside Land and Water Conservation Fund projects are determined at the State level, so if funds for state grants are included in the bill, it still will not be possible to secure dedicated funding for this project.

Mr. LIEBERMAN. I understand that, and respectfully withdraw my amendment.

LAND ACQUISITION AND STATE ASSISTANCE FOR NATIONAL PARK SERVICE

Mr. KOHL. Mr. President, I want to take a moment to engage the distinguished chairman of the Interior Subcommittee, Senator GORTON, on a matter relating to the Land Acquisition and State Assistance account for the National Park Service.

I was pleased to see that the Committee chose to provide funding for the Ice Age National Scenic Trail in this account. One of eight National Scenic Trails in the United States, the Ice Age Trail meanders through 31 Wisconsin counties, generally following the terminal moraine. As I noted in my request to the Subcommittee, the depth of commitment to the Ice Age Trail in the state of Wisconsin is impressive. Many volunteers, local governments,

and private organizations have contributed to the development of the trail. The state of Wisconsin has also provided essential matching funds to the trail's many partners. One of the most compelling aspects of this request for funding was the commitment from the State of Wisconsin to match the federal funding we are providing for Ice Age Trail land acquisition.

Mr. GORTON. The Senator is correct. The Committee notes the commitment of partners like the state of Wisconsin to provide matching funds for the establishment of our national trails when we make our determinations for funding. The Committee urges partners to honor their commitments as the prospects for future appropriations may be looked upon more favorably.

Mr. KOHL. I thank the Senator from Washington for his remarks.

WEATHERIZATION ASSISTANCE PROGRAM

Mr. BINGAMAN. I rise in the hope that the Chairman of the Energy and Natural Resources Committee, the gentleman from Alaska, will engage in a colloquy with myself, Senator JEFFORDS and the Chairman of the Interior Appropriations Subcommittee, the gentleman from Washington, on the Weatherization Assistance Program provision in the bill passed by the other body.

Mr. Chairman, as you are aware, the other body passed its version of the FY 2000 Interior appropriations legislation on July 14. That bill included a provision mandating States to provide a 25 percent state cost share, or state match, in order to receive their FY 2000 Weatherization Assistance grants.

Despite the potential ramifications of implementing a State match, no hearings have been held, and no input has been solicited from the States to determine if cost sharing is realistic or necessary for this program.

As many Senators are aware, state legislatures across the country simply cannot meet this deadline with such short notice. In fact, some legislatures are about to adjourn and will not meet again for another year or even two.

Currently, the only data we have regarding the impact of the proposed State match comes from an informal survey undertaken this month by the National Association of State Community Services Programs; it indicates that 25 states definitely cannot provide matching funds in FY 2000; another five large states are uncertain whether they can meet the requirement, and less than ten States currently provide state-appropriated funds to Weatherization and would be able to comply immediately.

It seems to me that consideration of such a fundamental change in the distribution of state Weatherization Assistance grants falls squarely under the jurisdiction of the authorizing committee. Wouldn't the Chairman agree?

Mr. MURKOWSKI. That is certainly true. The Committee currently has no analysis of the need for such a cost share nor of the state-by-state or national impact of such a requirement.

Although the State of Alaska has established a state ''Trust Fund'' to contribute a significant amount to the State's Weatherization efforts, it would be imperative that we ascertain the ability of other States to undertake such commitments before deciding on a change that could bring an end to Weatherization services throughout the nation.

Of course, a federal program that can leverage non-federal funds and attract other partners always has a stronger case for appropriations. Is the Senator from New Mexico informed as to whether any states have many such resources in their Weatherization program?

Mr. BINGAMAN. I am told that, nationally, Weatherization leverages about a 50 percent add-on from non-federal sources—but there is no study of this and it probably varies widely among states. In fact, the same informal state survey I just mentioned reported that many of the states have private partnerships between the utilities and the local community action Weatherization programs, brokered in many instances by the Weatherization programs, and that these partnerships are growing as utility restructuring moves forward. Many building owners in low-income communities also chip in for these services.

Further, I am told many states have excellent coordination among the federal low-income energy and the low-income housing and community development programs. However, the fact is that most of the states reviewed the terms of the match in the House bill and said they don't believe these public-private efforts would qualify under that terminology.

I believe we would really have to look into any requirement that didn't encourage private investment in these local programs; I hope the distinguished chairman of the Energy Committee would concur in opposing the inclusion of language authorizing a State match for Weatherization in the Interior appropriations bill or Conference Report.

Mr. JEFFORDS. Mr. Chairman, the Weatherization Assistance Program is an investment. Its success is unparalleled—as a way to upgrade housing, increase energy efficiency, and assist low-income Americans.

Weatherization enables very low-income people—including families with children, older Americans, and individuals with disabilities—to experience savings of 30 percent on their energy bills. For every federal dollar invested in this program, $2.40 in energy, health, safety, housing, and other measured benefits are achieved.

The mandate that States provide a 25 percent state cost share contained in the bill passed by the other body may endanger states' use of this program. This provision causes great concern to me and other Senators of the Northeast-Midwest Senate Coalition, which I co-chair with Senator MOYNIHAN. Such a fundamental change in the distribution of state Weatherization Assistance grants falls squarely under the jurisdiction of the authorizing committee.

Mr. MURKOWSKI. I certainly agree that if we're going to make any major changes to the program, we need to do so in a way that encourages more private investment and that we had better make sure we consult with the Governors and utilities and get it right.

I would certainly oppose making such fundamental changes in the pending bill. I hope the floor managers can give us assurance that the Senate Conferees will convey our concerns to their House counterparts and reject this language in Conference. I would like to ask the Chairman of the Interior Appropriations Subcommittee if the Senate conferees on this legislation will keep in mind the concerns of the Energy and Natural Resources Committee in mind and move to strike the House language?

Mr. GORTON. As the distinguished Chairman is aware, the bill before us does not include any language requiring a state match. I will certainly keep the objections of the Energy and Natural Resources Committee and the Northeast-Midwest Senate Coalition in mind as we move to conference.

Mr. MURKOWSKI. I thank the Chairman.

MARBLED MURRELETS

Mr. GORTON. Mr. President, last year, we enacted the Intestate 90 Land Exchange Act authorizing a large land exchange in Washington between Plum Creek Timber Company and the Forest Service. The land exchange was scheduled under the Act to be closed on July 19. Just prior to closure, however, Plum Creek discovered Marbled Murrelets on two sections of Forest Service land scheduled under the Act to be transferred to Plum Creek.

The discovery of Marbled Murrelets occurred after the appraisal was completed and signed by the Secretary of Agriculture. Plum Creek and the Forest Service agree the two sections of land containing murrelets should remain in federal ownership. The legislation, however, did not contemplate or provide for the deletion of these lands or for the need to adjust the appraisal after it had been approved by the Secretary. We are working with the Forest Service and Plum Creek on a solution to this problem.

The land exchange is vital because it substantially resolves a decades old conflict created by the checkerboard ownership pattern in central Washington. It places into public ownership thousands of acres of mature timber and essential wildlife habitat, dozens of miles of streams and riparian corridors and some of the most popular recreational lands in Washington.

Mrs. MURRAY. Mr. President, I join my colleague in his remarks about the Plum Creek exchange. We worked very hard last year to enact this exchange. I also share a concern about the implications of the discovery or marbled

murrelets on the lands scheduled to be exchanged to Plum Creek. I agree these lands should be left in federal ownership. I would like to ask Senator GORTON does one senator understand legislation is needed to allow the Forest Service to keep the two sections in question?

Mr. GORTON. Yes. The Forest Service and Plum Creek have been working on an amendment that would allow these two sections to be dropped from the exchange and for the appraisal to be adjusted accordingly. It is my intention to continue to work with the Forest Service and Plum Creek to draft an amendment to include in the conference report.

Mrs. MURRAY. I thank the Senator. I look forward to continuing to work with you, the Forest Service, Plum Creek, and other interested parties as the legislation is developed.

THE UNDERGROUND RAILROAD

Mr. DEWINE. Mr. President, I thank Senator GORTON and Senator BYRD, the Chairman and Ranking Member of the Subcommittee on Interior Appropriations for their hard work. As they both know, last year I sponsored the authorizing legislation for the National Underground Railroad Network to Freedom. This new law directs the National Park Service to review hundreds of Underground Railroad sites in Ohio and around the country, identify the most notable locations, and produce and disseminate appropriate educational materials. I believe the history of the Underground Railroad is a part of the American story that we should be proud of. Last year, the Chairman and Ranking Member worked with me to fully fund the program in Fiscal Year 1999. I made a similar request this year. I would like to ask for clarification of some language contained in the Committee Report. Specifically, the Committee provided $1,245,891,000 to the National Park Service for park management. Is it the Chairman's intent that this figure includes $500,000 for the implementation of the National Underground Railroad Network to Freedom?

Mr. GORTON. I thank my colleague from Ohio. The Senator is correct. The funding for National Park Service park management will fully fund the implementation of the National Underground Railroad Network to Freedom.

Mr. DEWINE. I appreciate the clarification from my colleague from Washington and thank him and Senator BYRD for their continued support for this program.

BENJAMIN FRANKLIN NATIONAL MEMORIAL DISABLED ACCESS IMPROVEMENTS

Mr. SANTORUM. Mr. President, I have sought recognition to speak about the need for the federal government to share in the cost of much-needed disabled access improvements at the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania. As my colleagues may know, this National Memorial was designated as a National Park Service Affiliated Area by Public law 92–551.

The Benjamin Franklin National Memorial is located in the rotunda of The Franklin Institute Science Museum in Philadelphia, Pennsylvania. The Memorial Hall was opened in 1938 and features a 20-foot high marble statue of Ben Franklin sculpted by James Earle Fraser, as well as many of Franklin's original possessions.

Mr. President, I was very appreciative earlier this year when the distinguished Chairman of the Interior Subcommittee, Senator GORTON, joined me in a visit to The Franklin Institute to see first-hand the need for disabled access improvements in the National Memorial Hall. I believe that he saw for himself that the 1938 design of the facility does not lend itself to easy access for anyone in a wheelchair or with other disabilities. The legacy of Benjamin Franklin is one that should be treasured and understood by all Americans, which is why I salute the Franklin Institute for embarking on a major capital development campaign to pay for, among other things, some of the costs associated with these renovations.

To date, the Institute has spent over $6 million of its own funds in the ongoing maintenance of the Memorial Hall. Since Congress bestowed national memorial status on this facility, and since it is important to ensure that all Americans, regardless of physical ability, can benefit from learning more about Benjamin Franklin, I want to encourage Chairman GORTON to continue working with me to providing funding for this purpose. I am advised that in Fiscal Year 2000, $1 million in federal funds would be a significant first step toward meeting the anticipated $6 million cost of rehabilitating and updating the National Memorial and its exhibits.

Mr. GORTON. Mr. President, I want to thank my friend, the Senator from Pennsylvania, for his comments. He has truly shown leadership with respect to the funding needs of the Benjamin Franklin National Memorial, and I was pleased to participate in a tour of this facility when I visited Philadelphia this Spring.

I commend The Franklin Institute for seeking nonfederal sources of funding to defray a substantial portion of the anticipated costs of the improvements. As my colleagues are aware, we face tight budget constraints in this legislation. I will continue working with my colleague from Pennsylvania in the coming weeks, however, in an effort to identify sources of funding that may be available and appropriate for this purpose.

REHABILITATION OF THADDEUS STEVENS HALL

Mr. SANTORUM. Mr. President, I have also sought recognition to express my support for a project of historical, academic, and economic importance at Gettysburg College in Gettysburg, Pennsylvania. I believe that this project is a perfect candidate for funding under the Save America's Treasures grant program.

Stevens Hall, named for prominent Gettysburg citizen Thaddeus Stevens, was the fourth major building erected on the campus of Gettysburg College, in 1867. The building currently serves as a dormitory for undergraduate students. Renovation of the structure is necessary to preserve the building's exterior and modernize the electrical and fire prevention systems.

Gettysburg College plans to restore and rehabilitate Thaddeus Stevens Hall and transform the building into a center for the study of history and the Civil War era. Stevens Hall will eventually house the College's Civil War Institute. Located adjacent to Eisenhower House and just blocks from the Gettysburg National Military Park, this project will not only restore a distinguished example of 19th century architecture, but will attract students of the Civil War nationwide. The College has already committed substantial resources to this important project, securing $2.5 million in private funding for preservation work.

I understand that the committee did not include funding for the Save America's Treasures program; however, federal funding is crucial to the timely completion of restoration work on this historical structure. I urge the Chairman of the Subcommittee, Senator GORTON, to continue to work with me to identify appropriate federal funding for this important preservation initiative.

Mr. GORTON. I thank the Senator from Pennsylvania for his comments, and I look forward to continuing to work with him on this request. I am well aware of the importance he places on this project, and more broadly, on his involvement in Gettysburg. I will work with my friend from Pennsylvania to fund the restoration and rehabilitation of Thaddeus Stevens Hall.

AMENDMENT NO. 1576

Mr. MCCAIN. Mr. President, I will offer an amendment to H.R. 2466, the FY 2000 Interior Appropriations bill, to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial on Federal land in the District of Columbia to honor all disabled American veterans. This legislation is not controversial, costs nothing, and deserves immediate consideration and passage.

As a Nation, we owe a debt of gratitude to all Americans who have worn their country's uniform in the defense of her core ideals and interests. We honor their service with holidays, like Veterans Day and Memorial Day, and with memorials, including the Vietnam Wall and the Iwo Jima Memorial. But nowhere in Washington can be found a material tribute to those veterans whose physical or psychological well-being was forever lost to a sniper's bullet, a landmine, a mortar round, or the pure terror of modern warfare.

To these individuals, we owe a measure of devotion beyond that accorded those who served honorably but without permanent damage to limb or spirit. For these individuals, a memorial in Washington, D.C. would stand as testament to the sum of their sacrifices, and

as proof that the country they served values their contribution to its cause.

We cannot restore the health of those Americans who incurred a disability as a result of their military service. It is within our power, however, to authorize a memorial that would clearly signal the Nation's gratitude to all whose disabilities serve as a living reminder of the toll war takes on its victims.

Under the terms of this legislation, the Disabled Veterans' LIFE Memorial Foundation would be solely responsible for raising the necessary funding. Our amendment explicitly requires that no Federal funds be used to pay any expense for the memorial's establishment.

I urge my colleagues to join me and Senators DASCHLE, COVERDELL, CLELAND, and KERREY in support of this legislation. America's disabled veterans, of whom Senator CLELAND himself is one of our most distinguished, deserve a lasting tribute to their sacrifice. They honored us with their service; let us honor them with our support today.

ITM SYNGAS PROGRAM

Mr. SPECTER. Mr. President, I thank the Senator from Washington, The Chairman of the Senate Interior Appropriations Subcommittee, for adding $1.4 million to the Department of Energy's competitively awarded, cost-shared ITM Syngas program, specifically the ''Engineering Development of Ceramic Membrane Reactor Systems for Converting Natural Gas to Hydrogen and Synthesis Gas for Liquid Transportation Fuels'' project. This important high-risk, high-impact gas-to-liquids research and development project will convert domestic remote and off-shore natural gas to synthesis gas, resulting in lower cost production and cleaner alternative fuels. This program also promises to create new markets for U.S. domestic resources and extend the useful life of the Alaskan North Slope oil fields and the trans-Alaskan pipeline system.

The ITM Syngas research and development effort is a complex, high risk undertaking by the Department of Energy and its industry, national laboratory and university partners. As with any complex technological undertaking, the Department of Energy and its ITM Syngas team have had to increase the scope of the initial phase of the program and add a university partner to ensure the project's long-term success.

This $1.4 million is in addition to the budget request for fiscal year 2000 of $2.5 million that is in the Fossil Energy, Gas, Emerging Processing Technology Applications and the Energy Supply, Hydrogen Research program. The total DOE funding for the ITM Syngas program in fiscal year 2000 is $3.9 million.

The addition of $1.4 million in fiscal year 2000 will allow approximately $600,000 to be allocated to the first phase of this project to fund activities that could not have been anticipated when the program commenced last year. The remaining $800,000 will allow the second phase of the ITM Syngas to be accelerated, allowing future costs to be avoided.

This program brings together the Department of Energy, U.S. industry—large and small—our national laboratories and research universities. Again, I want to thank the Senator from Washington for his efforts to ensure that from the earliest phases of this important research and development effort, ITM Syngas is a success.

Mr. GORTON. Mr. President, there do not seem to be any amendments to the bill that are ripe for debate and for disposition at this point.

Did the Senator from Virginia have any further comments?

Mr. ROBB. Mr. President, I thank the Senator from Washington for his offer. Given the absence of other Senators who I know want to debate this particular issue, I look forward to resuming that debate when the Senate returns to session on September 8.

Mr. GORTON. Mr. President, I don't think there is any further business in connection with the interior appropriations bill.

## MORNING BUSINESS

Mr. GORTON. Mr. President, I therefore ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

## REORGANIZATION OF THE DEPARTMENT OF ENERGY

Mr. KYL. Mr. President, I would like to speak for just a moment to alert my fellow Senators and others about an important development this evening which I think we categorize as another piece of good news, in addition to the adoption of the conference report on the tax reform just concluded by the Senate.

Even though the conference report is in the process of being signed and has not yet been filed, I think I can advise my colleagues that later on this evening the House and Senate Armed Services Committees will have concluded their conference report, including the important revisions of the Department of Energy which follow generally along the lines of the so-called Rudman report recommendations and the amendment that Senators MURKOWSKI and DOMENICI and I filed earlier in this session to reorganize the Department of Energy.

The House and Senate had both passed versions of that reform of the Department of Energy. The matter was concluded today in the House-Senate conference report of the Armed Services bill, and that is the vehicle by which the reorganization of the Department of Energy will occur.

Just to recapitulate a little bit about how this came about, if you will recall, as a result of the espionage that resulted in the Chinese receiving significant secrets about nuclear weapons of the United States and the possibility that some of that information had come out of our National Laboratories, there was a great deal of study of the security at our National Labs and in the weapons program generally of the Department.

The President's own Foreign Intelligence Advisory Board, the so-called PFIAB, headed by former Senator Warren Rudman, issued a report, really a scathing indictment of the Department of Energy, its past security policies or lack of security, and its inability to reorganize itself notwithstanding Secretary Richardson's efforts to begin to reorganize the Department. What it said was the Department of Energy was incapable of reorganizing itself. They reiterated a long list of things which the Department had failed to do, which it had failed to put into place, and described the whole situation at the Department as such that it was impossible to expect them to be able to do this on their own.

Therefore, the Rudman commission recommended strongly the Congress do this reorganization by legislation. That is when Senators DOMENICI, MURKOWSKI and I reoriented our amendment to follow closely the Rudman commission recommendations and introduced that as an amendment before this body.

It was originally introduced to the Armed Services bill. It was later put on the Intelligence bill instead. But the Armed Services Committee took the amendment and has worked it now in the conference committee, as I said. As a result of their agreement tonight, there will be a reorganization of the Department, assuming the President signs the Defense authorization bill, which I am sure he would want to do.

Reorganization was agreed to in principle by Secretary Richardson, although there were many things he wanted to change in the detail of it. But what it will do in a nutshell is to establish within the Department of Energy a semiautonomous agency that will have the accountability and the responsibility for managing our nuclear weapons and complex including the National Laboratories. It will be headed by a specific person, an Under Secretary, who will be responsible to the Secretary directly and to a Deputy Secretary if the Secretary so desires.

While, of course, the Secretary of Energy remains in general control of all of his Department, including the semiautonomous agency, on a day-to-day basis it is anticipated this agency will be operated by the Under Secretary, who is responsible for its functions. It will involve security, intelligence, counterintelligence, all of the different weapons, the Navy nuclear program and the other things at the laboratory that relate to our nuclear weapons. To a large extent it will remove the influences of other parts of the Department

of Energy over the nuclear weapons program.

One of the things the Rudman commission found was that there were too many people with their fingers in the pie; that the laboratories and the weapons program people were having to get too many sign-offs from too many other people around the Department to work efficiently and effectively. The input of the field offices made it very difficult to know who was responsible, and it was hard to find out in some cases who you even had to get sign-offs from in order to get anything done. They said, in effect, it was no wonder the left hand didn't know what the right hand was doing and that is why they recommended a very clear chain of command, a very clear line of authority with accountability and responsibility with one person at the top and a bunch of people answerable to him and only him—as well as the Secretary, of course.

The net result of that should be we will have a much tighter organization run much more efficiently. We will not have the influences of these other disparate people within the Department. Security can be carefully monitored and controlled and, in fact, maintained and in some cases even established. Therefore, the security of the nuclear weapons program generally and the laboratory specifically can be enhanced and we will not have the kind of espionage problems we have had in the past.

That is a summary of the problem, the recommendation of the Rudman report, the recommendations Senators DOMENICI, MURKOWSKI, and I introduced, and the action of the House-Senate Armed Services Committee today in approving this particular plan.

I thank some people specifically involved in developing this. In addition, of course, to Senator DOMENICI, who was the primary mover behind this idea, and Senator Rudman and the members of his panel; Senator MURKOWSKI added a great deal as did Senator SHELBY, the chairman of the Intelligence Committee, and Senator WARNER, the chairman of the Armed Services Committee in the House.

Specifically, I thank Senator WARNER for his patience for working with a lot of people who had different ideas about what ought to be done, bringing this to a near successful conclusion, from my point of view, and which will enable us to move forward very quickly with this reorganization.

There are also some special staff people who, as always, make these things happen. In the Senate, the staffs of Senators DOMENICI and MURKOWSKI; Alex Flint, Howard Useem, and John Rood did a great deal of work on this and should be complimented. Two Members of the House of Representatives, who were very active in making this work, Congressman DUNCAN HUNTER and Congressman MAC THORNBERRY were really the key movers and shakers on this.

So as we get ready to leave here this evening, I think it is important for us to acknowledge the work of these people and the leadership of Senator WARNER and the conclusion which I hope can soon be announced, as the successful completion of the conference, at least in this one important area, making a great stride toward ensuring the security of our weapons programs and our National Laboratories.

The PRESIDING OFFICER. The distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I wish to thank our distinguished colleague, together with Senators DOMENICI and MURKOWSKI and their respective staffs. Indeed, the staff of the Senate Armed Services Committee and the House Armed Services Committee all collaborated to try to make this a constructive, constitutional, and balanced approach.

But if I could ask the Senator a question, so those persons who have not had the opportunity to follow as closely as he the progress of this legislation, does the Senator think the product created by the House-Senate conference represents a piece of legislation that is stronger, in terms of creating this concept of a separate entity within the DOD, than was the bill passed by the Senate at 93–1?

Mr. KYL. Mr. President, I think it is. I think the Senate passed a good bill almost unanimously. The House of Representatives had a somewhat different approach. I am sure they considered it an even stronger bill. As the chairman knows better than any of us, compromise is required in that kind of situation. I think each body moved somewhat toward the other. So inevitably I think the product, as good as it was out of the Senate, is even strengthened by some of the ideas that came out of the House of Representatives.

I might ask the chairman a question, if I could.

Mr. WARNER. Yes.

Mr. KYL. One of the things that animated us in the Senate was the need to get on with this project, get the Department reorganized, and to begin dealing quickly with these security problems so we did not have any more problems. Reorganization of a Department, obviously, will take a lot of work and some time. Of course, time will be required to appoint the various officials who will be running it.

But I ask the chairman this, just to get his ideas. There are different dates by which things are required to be done under the legislation. What is our intent with respect to moving this legislation forward and accomplishing its objectives as soon as is possible?

Mr. WARNER. Mr. President, to use an old naval phrase, ''with all deliberate speed.''

I know the Senator's concern about the insertion of a date in March with regard to the final achievement by, presumably, the current Secretary; if Secretary Richardson will carry this through. Certain sections, however, of this legislation are quite clear that he should start the day after the President, hopefully, affixes his signature to this piece of legislation.

It is a phasing process. We looked at the date of March, and it should not, in my judgment, be interpreted as any lack of resolve by the Congress. To the contrary, it is a recognition that a major reorganization of this proportion will require a period of time within which to achieve it.

The opposite side of the argument of those who say we should not have had that date would be, if you did not put in a recognition that it would take time, then presumably 1 week after the President affixes his signature, we could haul the Secretary of Energy up here and say: You haven't achieved this in 1 week's time, 2 week's time or 30 days' time.

We had to strike a balance. I know that has been of great concern to my distinguished colleague.

Mr. KYL. If I may add, I know the chairman and I share the same view that ''all deliberate speed'' means we need to get about it as soon as we can. I ask the chairman this: Is that more to be considered as a deadline for having achieved this rather than a time to begin? Time to begin, of course, when the President affixes his signature.

Mr. WARNER. Mr. President, certainly it is to be viewed the time within which to be completed. Given the certain constructive steps the current Secretary, Secretary Richardson, has taken, I presume he will have achieved the reorganization in a time shorter than that. But I must say to my colleague, you cannot satisfy everybody.

This is my 21st year on the Armed Services Committee, and as we file tonight the signatures of those members of the respective committees, House and Senate, who have approved the conference report, it is my understanding that no Democrat member of the Armed Services Committee in the Senate will be signatory. That comes as a personal disappointment to me as chairman in my first year.

I met with the committee this afternoon. There was representation of probably seven or eight members on the Democrat side. The ranking member let me know beforehand of his concern, and I understood him throughout. We tried as best we could to work with the minority on our committee on this issue, as we do all issues. It is a matter of deep regret that we were not able to reconcile the differences that apparently were very significant between the Democrat approach to this and the Republican majority approach.

I will accept the consequences. I am the captain of this ship now, and I accept full accountability. I do note, however, that my understanding is, as of this hour, most, if not all, the Democrat Members of the House have signed, of course, the identical conference report.

Mr. KYL. If I may interrupt for one other comment, I thank the chairman of the Armed Services Committee for

his courtesies in allowing three Senators who are not members of the committee—Senators DOMENICI, MURKOWSKI, and myself—to be significantly involved in discussing this and proposing suggestions and passing on suggestions that came from the other body. That is a good example of how people in different committees—in my case, the Intelligence Committee—working across jurisdictional lines can help shape the legislation. I personally appreciate that very much.

I will add this with respect to our friends on the other side of the aisle. I do not know if I can assign a percentage to it, but it still seems to me that about 90 percent of this bill is the Senate bill we passed. I do not know of a single concept that deviates from the concepts within the Senate bill, even though some of the language is different.

I think we protected the Senate legislative concepts very well, and I hope that in the end our Democratic colleagues will continue to work with us and certainly with Secretary Richardson to implement the legislation.

I know as we go forward there are going to be hearings in different committees. The chairman's committee will have primary jurisdiction, I understand, and we will be able to continue to work on this because something as significant as the reorganization of the Department is not going to be done in one fell swoop. It will have a lot of fits and starts and oversight and ways of working together. I am sure with the chairman's leadership we will all be able to make this work in the way we intend.

Mr. WARNER. Mr. President, one last observation, if the Senator will remain for a moment, and that is, I think we should acknowledge in this RECORD tonight the work of the Intelligence Committee, the Governmental Affairs Committee, the Energy Committee, and the Armed Services Committee. There were four committees that worked diligently.

Our distinguished majority leader would have periodic meetings of the chairmen, and others such as yourself, who had an interest. Senator DOMENICI attended all of those meetings. On this side of the aisle, from our top leadership down through the committee chairmen and others, we worked together as a team to address this national, if not international, crisis of the leakage of information from these magnificent laboratories. Our national security is absolutely dependent on their work product and the security of that work product today and tomorrow and for the indefinite future.

I thank all chairmen. They had a number of hearings. My estimate is that we in the Senate, among the four committees, must have had 25 hearings on this subject.

Mr. KYL. May I add one more thing? I know it sounds like a recapitulation, but when the Senator mentioned Senator DOMENICI and the fine work our National Laboratories do, I was moved to think about how many times during these negotiations Senator DOMENICI, who represents two of those laboratories, Sandia and Los Alamos, made absolutely sure that the work of those laboratories was well understood by everyone and appreciated by everyone. He was very zealous in assuring that nothing in the legislation would ever detract from their operation or their success, that they could reach out and engage in new missions, that they would be protected in terms of environmental protection and funding.

He was a zealous advocate for those laboratories and all the great work they can do. His leadership in that regard is one of the reasons we were able to achieve such a balanced piece of legislation.

I thank the Chair.

Mr. WARNER. Mr. President, the Senator is correct. I also observe, yes, but he was very objective about the seriousness of this problem. Throughout his deliberations, whether in Senator LOTT's office or the hearings or in our consultations together, he was always very objective, and he put national interests first at every step. So the Senator is correct.

I conclude with one sentence to my friend. I do not think if we recalled William Shakespeare from the grave that this provision on reorganization could have been written on the Department of Energy to satisfy everyone. That is the reason I have such deep regret about my colleagues on the other side of the aisle. Many times we consulted them right down to the word and the comma and the like. We just did the very best we could, and I am proud of the work our committee did. I pay tribute to the respective staffs and my colleagues who worked on it.

We are fully accountable for the effectiveness, and we, as a committee, perhaps with other committees, will hold a hearing very early next fall to determine the progress, assuming this is signed, within a period of, say, 2 months after the President's signature is affixed.

I thank my distinguished colleague.

Mr. President, I want to make a few more comments regarding the conference of the House and the Senate. Quite apart from the DOE provision, we are very pleased that we made major strides in this legislation on behalf of the men and women of the U.S. military.

We have an authorized funding level of $288.8 billion, which is $8.3 billion above the President's budget request. And that is in real terms. This is the first time in 13 years that there has been a real—I repeat—real increase in the defense budget.

Our distinguished Presiding Officer is a member of the Senate Armed Services Committee. He actively participated in structuring this piece of legislation. We have approved a 4.8-percent pay raise for military personnel, reform of the military pay tables, and annual military pay raises 0.5 percent above the annual increases in the Employment Cost Index.

We provide military members with a wider choice on their retirement system. We allowed both Active and Reserve component military personnel to participate in thrift savings. There is nothing more important. Indeed, the tax legislation just passed —always, certainly, on this side of the aisle we are trying to seek ways to increase savings in our United States. I am pleased now we give wider opportunity to the men and women of the Armed Forces.

Strategic forces: We authorize a net increase of $400 million for ballistic missile defense, a program that finally has achieved recognition under our distinguished colleague, Senator COCHRAN of Mississippi, in passing here a week ago, the important legislation, which the President has now signed, to take another step forward in protecting America against the likelihood that possibly some accidental firing or limited attack could be launched against this country. We have a long way to go, but through the leadership of Senator COCHRAN, and others, we have finally forged, I think, another, should we say, 10 yards on this lengthy ball field.

We authorize an increase of $212 million for the Patriot PAC–3 system, again missile defense.

Seapower authorized a $1 billion increase to the procurement budget request of $18 billion and a $251 million increase to the research, development, test, and evaluation budget request of $3.9 billion for the Seapower Subcommittee under the chairmanship of Senator SNOWE.

Very able work was done on behalf of Senator SNOWE and the ranking member, Senator KENNEDY, for the Navy and the Marine Corps and a limited number of Air Force programs under their jurisdiction.

We extended the multiyear procurement authority for the DDG–51 procurement and authorized advance procurement and advance construction for the LHD–8. We authorize construction of three DDG–51 Arleigh Burke class destroyers, two LPD–17 San Antonio class amphibious ships, and one ADC(X), the first of a class of auxiliary refrigeration and ammunition supply ships.

We authorize advance procurement for 2 SSN–774 Virginia class attack submarines, and $750 million for the CVN–77, the last of the Nimitz class aircraft carriers currently in planning. We will, however, go on with another class of carriers, and that is the subject of research and development.

In the readiness, we increase funding for military readiness by $1.5 billion. It provides for the protection of the military's access to essential frequency spectrum. That was a highly contested issue in our legislation. The private sector had concerns that the Pentagon would absorb a proportion of the spectrum beyond its needs. But in consultation with Congressman BLILEY, the

chairman of the House committee with jurisdiction, Senator MCCAIN, a distinguished member of our committee, as well as chairman here of the Commerce Committee, we reached this compromise, which I hope all will find satisfactory.

In the Airland area, we had an additional $1.5 billion for critical procurement requirements and an additional $400 million for research and development activities above the President's request. We fully authorized the development and procurement budget request for the F–22 Raptor.

It is with some regret that the House did not adequately fund that program, in my judgment. That is a subject that is actively before the two Appropriations Committees. But both the House and the Senate authorizing committees fully funded that program.

Lastly, upon assuming the chairmanship of this committee from my distinguished predecessor, Senator THURMOND, I decided to establish a new subcommittee entitled ''Emerging Threats.'' That committee, under the great leadership of Senator ROBERTS, moved out, and here are some of the initiatives taken by that subcommittee.

We authorize and fully fund 17 new National Guard Rapid Assessment and Initial Detection—commonly known as RAID—Teams to respond to terrorist attacks in the United States—12 more than the administration request.

It was my judgment, and Senator ROBERTS' and the members of the committee, that this is the greatest threat poised at the United States today—the proliferation of weapons of mass destruction, whether they be biological, chemical, or possibly the incorporation of some crude weapon involving fissionable material. We have to move out on that. Progress was made by this new subcommittee.

Further, we required the department to establish specific budget reporting procedures for its Combating Terrorism Program. This will give the program the focus and visibility it deserves while providing Congress with the information it requires to conduct thorough oversight of the department's efforts to combat the threat of terrorist attack both inside and outside the United States.

We authorize $475 million for the Cooperative Threat Reduction Program to accelerate the disarmament of the former Soviet Union—now Russia—strategic offensive arms that always threaten the United States. That was commonly referred to as the Nunn-Lugar program for a number of years.

We establish an Information Assurance Initiative to strengthen DOD's information assurance program and provide for an additional $150 million to the administration's request for information assurances programs, projects, and activities.

In cyberspace today, with the rapid research and development—indeed, achievement—of many technical initiatives, the whole area of cyberspace is threatened by an ever-growing number of sources of invasion and compromise, and indeed, disabling of the systems themselves.

I thank my colleagues for indulging me to speak to this important piece of legislation which will be filed tonight in the House and, of course, automatically in the Senate.

I shall now inquire of our staff as to the desire of other Members to speak, as well as the wrap up for the evening.

(Mr. KYL assumed the Chair.)

I yield the floor, Mr. President.

Mr. SESSIONS. Mr. President, I note the Senator from Kansas would like to be recognized, but I ask if I could just make a few comments about the remarks that Senator WARNER has just made.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I have been honored to join the Armed Services Committee this year. Senator WARNER just took over as its new chairman. Some said we did not do anything the first part of the year, but even before the impeachment hearings came, Senator WARNER knew that we had a crisis in our defense circumstances.

He has served as Secretary of the Navy. He loves this country, and he loves our men and women in uniform. He decided early that we had to send a signal to reverse this 13-year trend of cutting our defense budgets, and he did that with great leadership.

We have now a very healthy pay raise this year for our men and women, a guaranteed pay raise in excess of the inflation rate for the next 5 years for our men and women in the services.

We want to send them a message that we are concerned about the rapid deployments that they are undergoing and the amount of time they spend away from their families. And we want to continue to monitor that.

I want to say how much I have enjoyed serving with the Senator. Members of both parties respect him and enjoy working with him.

Mr. WARNER. If the Senator would yield?

Mr. SESSIONS. Yes.

Mr. WARNER. I thank the Senator very much for his kind comments. But the Senator has brought to mind the fact that our majority leader, Senator LOTT, made a decision to support our committee in putting through S. 4, I think the earliest bill in the Senate, which brought about the pay raises and retirement adjustments, which, hopefully, will increase our readiness by encouraging more young men and women to join the Armed Forces—our recruiting having fallen off—and retaining the skilled personnel that we now have.

Also, it was the Joint Chiefs of Staff that on two occasions came before our committee—in September of last year and again in January of this year—and unequivocally stated, in their best professional judgment, the need for additional dollars, and how best those funds could be expended by the Congress, and putting particular emphasis on the pay and allowances, which is always the top priority of the Chiefs for their men and women of the Armed Forces.

I thank my colleague.

Mr. SESSIONS. I want to say how much I respect our chairman. I believe this bill, this appropriations report, represents a commitment by our Nation to reverse the trend of decline. The chairman has supported the President when he is right. He has been prepared to oppose him when he is wrong. As to those who disagree with our firm commitment, that I know the Senator in the chair supports, to reform our nuclear labs and to bring an end to this absolute disaster of security that we have had, I am disappointed that they have not yet gotten the message that serious fundamental reform is needed. They say those words, but when we come down with a good bill that does it, they draw back and again have excuses. I hope we can work this out and the bill will pass.

Mr. WARNER. Mr. President, if the Senator will yield, I have just been informed, much to my great pleasure, that two members of the minority, two Democrats on the Armed Services Committee, have now decided to sign our conference report, and there is a likelihood of one or more additional ones. I depart the floor far more heartened than when I entered about 40 minutes ago.

Mr. SESSIONS. I thank the chairman. I also appreciate his leadership and those who are signing this report. I think it is a good one.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

## CHEMICAL WARFARE IN SUDAN

Mr. BROWNBACK. Mr. President, I stated my support for my distinguished colleague from Virginia who chairs the Armed Services Committee. He did a wonderful job with that. This is such an important topic, even though we tend to think of the world as a stable place where we don't have to worry about it. I am glad he is worried about it and is so focused on it.

That is what I would like to draw the body's attention to right now, a situation that was reported this week in the reporting organizations of Reuters, the Associated Press, and the New York Times. This is a very troubling situation. It is in a part of the world that has experienced a great deal of trouble, but nonetheless, I want to point it out to this body.

On July 23, 22 bombs were reported dropped on two villages in Sudan—Lainya and Kaaya—resulting in internal hemorrhaging, miscarriages, animals dying among the villages. Several days later, after the bombs had fallen on this one village, United Nations relief workers with World Food Programme visited the town of Lainya and

immediately fell ill with strange symptoms. They were consequently evacuated to Kampala, Uganda, for testing even as they continued to physically suffer.

This, in turn, precipitated the beginning of a United Nations investigation into the use of chemical weapons, as reported this week by those three news organizations, chemical weapons that the chairman of the Armed Services Committee was just noting, that the biggest threat we are facing in the future is weapons of mass destruction. We are seeing here this week, reported in the newspaper, what has taken place in the Sudan, the symptoms of chemical weapons being reported.

We can't at this time jump to conclusions that they were actually used, but the evidence points clearly to the use of chemical weapons by the organization, by the government in Khartoum against its own civilian population in the southern part of that country.

This is also a government in Khartoum that is sponsoring terrorists around the world, where Osama bin Laden stayed and was hosted by them up until 1997 in Khartoum. They are trying to expand in three adjacent countries, saying we want to take our view of how the world should be organized into these countries and we are willing to do it by any means. We are even willing to use any means against our own people, against our own people.

They have killed in their own country 2 million people. They have pushed out and dislocated an additional 4 million people. Last year alone, they forced into starvation 100,000 people by denying our food aid to go where these people were located. They said: You cannot fly your relief planes to feed these poor people. Now they continue to bomb their civilian population, even with, if the evidence this week is proved true, chemical weapons.

I think this is so horrifying. I wanted to draw the attention of the Senate to what has been reported by these three news organizations this week and to call on the nation of Sudan to stop bombing its own civilian population, to refuse to do that, to call upon the U.N. to, with as much speed and haste as possible, conduct a full investigation of what has been reported this week as having happened to the civilian population, and call on U.S. authorities to investigate this as fully as we can to see what actually took place. If true, this is truly horrifying, that weapons of mass destruction such as these chemical weapons would be used against their own civilian population. I think it is just absolutely unconscionable, virtually unbelievable.

This is also a government that continues to allow slavery to be conducted on in its country. There have actually been thousands of people purchased back from their slave masters. As we approach the new millennium, one would think that at least the institution of slavery would be gone from the world. It is not. One would think the use of chemical weapons would be gone from the world today, but it is not.

These things must be investigated to the fullest extent, and if chemical weapons were, indeed, used, the Government of Sudan must be brought in front of the international bodies, the international court of shame, and put in that pariah nation category. They currently, of course, are one of the seven terrorist nations in the entire world that the U.S. Government lists as a terrorist nation. But the possible use of chemical weapons, as reported this week, takes this to an unbelievable level against its own population. That is why, even though this is a late hour, I draw this to the attention of this body.

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

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## TRIBUTE TO CARL BIERSACK, LEGISLATIVE DIRECTOR FOR THE SENATE MAJORITY LEADER

Mr. LOTT. Mr. President, I take this opportunity to recognize and bid farewell to my loyal and trusted advisor, Carl Biersack. Carl is leaving my staff to enter into retirement after 27 years of Federal service, including more than 9 years of outstanding service on my staff.

It is difficult to pay adequate tribute to a man who has done so much for me, for my staff, and for the State of Mississippi and the Nation. Those of you who know Carl know that he gives 110 percent of himself every day, inspiring those around him to do the same.

He is the son of a career U.S. Army officer, Carl graduated from the Virginia Military Institute in 1971. He received his commission as a second lieutenant and served on active duty for over 7 years. So how did I get so lucky, you ask, to add this VMI alumnus to my staff? Yes, VMI is where Sigma Nu was founded, but no, this is not the reason!

Mr. President, in 1988, the U.S. Army made Carl the recipient of the prestigious Pace Award. This award, which was named after a former Secretary of the Army, is given out annually to one civilian and one member of the military who have demonstrated outstanding service on the Army staff to their nation.

As if receiving the coveted Pace Award was not tribute enough, the award included an opportunity to study at Harvard for a year. Because of family considerations, Carl decided to forgo a move to Boston and instead asked to spend a year as a Capitol Hill fellow. He thought he would learn more useful skills here than at Harvard. He was right. The Army agreed, and he was hired as a fellow in my personal office by my then-Chief of Staff, John Lundy; former Legislative Director Sam Adcock; and Susan Butler, now Chief of Staff for Congressman Chip Pickering.

That's right, Mr. President—I was Carl's second choice. Carl is quick to say he is an accidental staffer. Someone who did not aspire to work on the Hill. I believe this was one of his strengths.

He brought the honor and integrity he learned at VMI, the discipline and dedication of his Army service, and the work ethic of a DOD civil servant to my office.

After his first year, I asked Carl to stay as a permanent member of my staff. Fortunately for me and Mississippi, he did. Now, looking back at his nine years worth of accomplishments, I am amazed. In fact, I had grown so accustomed to his daily presence, when asked, I said Carl worked for me for 13 years. Even people downtown think his tenure was about 15 years. His presence and contributions cast a long shadow.

Carl has covered a broad range of issues during his tenure on the Hill ranging from telecommunications to energy, from environment to fish, from oceans and roads to bridges and aviation. While Carl has never sought the limelight, many of my colleagues recognize his vital role in enacting important legislation. He was a fearless negotiator who frequently found consensus through incremental changes. Often his work was ratified by unanimous consent actions.

During Carl's tenure, he successfully shepherded roughly 25 public laws through the legislative process: Many of these laws moved key industries to competition, such as the Telecommunications Act of 1996, and the Ocean Shipping Reform Act of 1998. Some reformed the way the Government regulates and supports certain industries, such as the ICC Termination Act of 1995, the Maritime Security Act of 1996, and the Amtrak Reform Act of 1997.

Some will shape our Nation's high-tech economy, such as the Y2K Act and the Internet Tax Freedom Act. Others, such as the National Invasive Species Act of 1996, and the Accountable Pipeline Safety and Partnership Act of 1996, protect life, property, and the environment from harm.

Then there were bills, like TEA–21, which were vital to maintaining and improving our Nation's infrastructure. And let me not forget Carl's role in facilitating Congress' basic responsibility: authorizing and appropriating funds for Executive departments and agencies.

Carl was able to accomplish so much as a Senate staff member because of his willingness to work out inclusive solutions to problems. His success can also be attributed to his efforts to remain

an anonymous staffer who avoided the spotlight. He concentrated on results, not personal credit.

Staff on both sides of the aisle were comfortable working with him. He admitted his errors, said he didn't know when he was unsure, and was generous with his praise for others. He read the material provided by constituents and advocates, returned phone calls, and was accessible. He was the consummate staffer.

Both Senators and staff knew Carl would deal with their concerns fairly, honestly, and professionally. A deal was a deal. His word was respected. This was true both on the Hill and downtown.

Carl was determined to learn all there was to know about Mississippi. He made trips back to the state to visit our catfish farms, pulp and paper plants, national forests and universities. He saw small towns, courthouse squares, topnotch telecommunications headquarters and military bases. Carl knew that learning about the lives of Mississippians was important to effectively represent the state and its citizens.

Although Carl is from Virginia—often referring to himself as my token non-Mississippian—he was an ardent defender of Mississippi's interests and people. Mississippians have grown to trust and respect Carl's devotion to ensuring that Mississippi's issues and concerns were recognized and often included. His adamant support of my home state's interests has not gone unnoticed by its citizens. Carl was named an honorary citizen of Mississippi and he proudly displayed the certificate.

For years, Carl willingly and voluntarily assumed the role of mentor to new staff members who needed help navigating the complex legislative world. As Legislative Director, he challenged staff to achieve their fullest potential, take risks and learn from their mistakes. There is no doubt that his influence spurred the professional growth made by young, eager staffers, resulting in talented and enthusiastic team players. Carl was always willing to share the lessons he learned the hard way.

There is no overstating how Carl's selflessness has enhanced the professional and personal lives of the generations of staffers who were privileged enough to work with Carl. He lived by the motto on his VMI class ring—''honor above self.''

I know that I am losing a brilliant and effective legislative director, but others tell me that I am losing the man who is teacher, parent and sometimes counselor to those around him. I am quite sure that the rest of my staff will miss him as much as I will.

Carl's memos and notes were always timely, informative, and accurate. They were frequently entertaining, and sometimes caustic, but his daily paper trail ensured I had the necessary information to deal with the issues and events surrounding legislation. He was not afraid to tell bad news, but he always proposed solutions.

Carl was the king of metaphors. He used them to make a point, to negotiate, and to educate. Still, he was eager to dig into issues and legislation. His knowledge of bills was his credibility. I do not think I ever saw him without reading material.

Mr. President, it saddens me to see a man of Carl's caliber depart my staff. He certainly leaves big shoes to fill. For Carl's talent, loyal service and dedication to me and the state of Mississippi, I am very grateful.

He is a man who was defined by his family. He always had his priorities straight and he never forgot his family as he fulfilled his commitments to the Senate and Mississippi. His wife, Ann, and his daughters, Katie, Sarah, Olivia, Allyson, and Rebecca, have reason to be proud. I wish Carl Biersack good luck in all of his future endeavors and pray that God may continue to richly bless him and his family.

## REINSTATEMENT OF WEST VIRGINIA STATE COLLEGE'S ORIGINAL 1980 LAND-GRANT STATUS

Mr. BYRD. Mr. President, West Virginia State College in Institute, West Virginia, was designated by Congress as one of the original 1890 land-grant schools under the Second Morrill Act. The college was the first 1890 land-grant school to be accredited and has been accredited longer than any other public college or university in West Virginia.

West Virginia was one of six states to establish a new land-grant college under state control. West Virginia State College faithfully met its duties to the citizens of West Virginia as a land-grant college in an outstanding manner.

However, on October 23, 1956, the State Board of Education voted to surrender the land-grant status of State College (effective July 1, 1957). Historical data suggests that this action was taken in an effort to enhance State College's ability to accommodate veterans returning home with GI benefits. In addition, the decision to surrender the land-grant status preceded explicit funding by Congress for land-grant institutions.

For thirty-three years, West Virginia State College has sought to regain its land-grant status. On February 12, 1991, Governor Gaston Caperton signed a bill into law that provided redesignation authority for land-grant status from the State of West Virginia. On March 28, 1994, then U.S. Department of Agriculture Secretary Mike Espy informed West Virginia Governor Caperton that State College would receive a partial land-grant designation that would entitle the college to $50,000 annually under the Second Morrill Act.

It has become clear that funding is the issue that must be addressed to reinstate West Virginia State College's land-grant status. I authored an amendment to the FY 2000 Agriculture Appropriations bill that will provide $2 million in additional funds for 1890 Institution entitlements to be used for base line funding for West Virginia State College. This amendment does not grant full 1890 land-grant funding privileges to State College, but provides a $2 million entitlement. The amendment does not cut into the current 1890 entitlement accounts. It adds additional funding with an offset from the National Research Initiative account.

My amendment provides fair treatment to West Virginia State College, an original 1890 land-grant school, and I thank my colleagues for supporting this provision.

## COMMUNITY AND OPEN SPACES BONDS ACT

Mr. HATCH. Mr. President, I rise today as an original cosponsor of the community and Open Spaces Bonds Act (COSB). This bill provides assistance to our local communities in their continuous efforts to improve the quality of life through flexible, zero-cost financing options for protecting open spaces.

As the acreage of open space in this country continues to decline, we find ourselves in a battle of time against widespread urban sprawl. The American citizens have spoken out, demanding that this body take the action necessary to protect the remaining open spaces and outdoor recreational opportunities that they have enjoyed since the founding of this great nation. The America Farmland Trust estimates that we have been losing farmland at approximately 3,000 acres per day since 1970. This growth is not only damaging to the agricultural industry, but all those who wish to enjoy this nations natural bounties.

I believe it is our obligation to respond to and remedy this situation. For this reason, I would like to thank my colleague Senator BAUCUS for taking the initiative in proposing legislation that provides incentives to those private land owning citizens who wish to protect our valuable open spaces. Our proposal makes available up to $1.9 billion annually for five years in bonding authority to state, local, and tribal governments. This voluntary approach allows the local community to lead the charge in projects that will improve the quality of life of its citizens, while the Federal government simply plays a supporting role. I think that is the way to do it.

These community based projects will be supported through proceeds from the sales of the bonds. The issuers would repay the principal at the end of 15 years, but the Federal government would pay the issuers' interest or borrowing costs through the tax credit during that period. As an incentive, the holder of the bond would get an annual tax credit equal to the corporate average AA bond rating, as posted by the Treasury, multiplied by the face amount of the bond.

This bill will spur even greater innovation than we already see at the local level in dealing with growth and urban sprawl issues. The flexibility of this proposal creates many opportunities in an often limiting system to raise funding for land purchases. We simply want to give communities a system that is entirely local driven, unlike that currently offered by the Federal government. The most dynamic aspect of this bill is that it restores to local governments the power to influence the future of their communities.

The Community Open Space Bonds Act can help respond to the need to protecting our beautiful lands and precious water supply, and I strongly urge my colleagues to join in this fight against the raging war of time. Action must be taken now, so that our children will enjoy the natural wonders we have come to love.

## HOLD UP OF FINAL PASSAGE OF THE MISSING, EXPLOITED AND RUNAWAY CHILDREN PROTECTION ACT

Mr. LEAHY. Mr. President, as I stand here today, we are hours away from beginning a month long recess and we have yet to reauthorize a critically important piece of legislation that protects our nation's youth. It has been over two months since both the House and Senate have passed S. 249, The Missing, Exploited and Runaway Children Protection Act, and we have still not voted on final passage.

There is no good excuse for why the Senate has not passed and sent to the President this noncontroversial piece of legislation. I had some minor concerns with the House amended version of S. 249, but after receiving some clarification and assurances on these concerns, I decided that these House add-on could be dealt with at later time and should not keep this important piece of legislation from passing. I have cleared the differences on our side of the aisle, but I am afraid I cannot say the same for my colleagues on the other side who continue to hold up final passage of this bill.

The Missing, Exploited, and Runaway Children Protection Act of 1999 reauthorizes programs under the Runaway and Homeless Youth Act and authorizes funding for the National Center for Missing and Exploited Children. Both programs are critical to out nation's youth and to our nation's well-being.

In addition to providing shelter for children in need, the Runaway and Homeless Youth Act ensures that these children and their families have access to important services, such as individual, family or group counseling, alcohol and drug counseling and a myriad of other resources to help these young people and their families get back on track. As the National Network for Youth as stressed, the Act's programs ''provide critical assistance to youth in high-risk situations all over the country.''

The National Center for Missing and Exploited Children provide extremely worthwhile and effective assistance to children and families facing crises across the U.S. and around the world. In 1998, the National Center helped law enforcement officers locate over 5,000 missing children. The National Center serves a critical role as a clearinghouse of resources and information for both family members and law enforcement officers. They have developed a network of hotels and restaurants which provides free services to parents in search of their children and have also developed extensive training programs.

S. 249 should be passed today. There is absolutely no reason to stall on this legislation, but as we get down to the wire to begin August recess, it looks like we will once again face another delay. We will return to our states and to our constituents who run these crucial programs and we will be unable to tell them that we have protected the programs that allow them to ensure children and families access to their services by reauthorizing the Runaway and Homeless Youth Act. I am frustrated once again at the inaction of the Republican majority on this matter and believe that The Missing Exploited, and Runaway Children Protection Act should be passed immediately.

## INCREASING SATELLITE AND CABLE COMPETITION

Mr. LEAHY. Mr. President, more than 3 years ago, I started raising serious concerns about the need to increase competition between cable and satellite TV providers and the need to allow satellite dish owners to receive local network stations. I felt then, and I feel now, that the best way to reduce the cable and satellite rate increases and to protect satellite dish owners is to have satellite television compete on a level playing field with cable.

I was thus very pleased when, finally, on May 20, the Senate passed a bill that I sponsored, without objection, which protects satellite dish owners and would offer them more television stations. I worked on this bill with the Chairman of the Judiciary Committee, Senator HATCH, and several other Senators.

The bill would restore satellite TV service to those who lost it, and it would prevent thousands of additional cutoffs.

Also, over time, it would permit satellite carriers to offer many more stations to home satellite dish owners. Unfortunately, even though the Senate passed the bill on May 20, we have been unable to set up a Conference with the other chamber. On June 8, the Senate approved the list of Senators—the Conferees—to negotiate the final bill with the House of Representatives.

The August recess is about to start. Thousands of Vermonters, and I am one of them, will continue to get minimal TV service because this bill was not able to be presented to the President for signature. I want to assure Vermonters that I will continue to work to get this bill before the President.

I also have been meeting with satellite company officials representing companies that will be able to offer a whole range of local stations, movie channels, sports, weather, history, PBS, superstations, and the like, to Vermonters via satellite. I want to make sure that Vermonters will be offered the full range of TV service over satellite once we can negotiate the final bill.

I am in the same situation as many Vermonters. At my home in Middlesex, Vermont, I only receive one local network channel clearly with my rooftop antenna.

I was very worried three years ago that satellite dish owners would start losing their ability to receive distant network signals. Unfortunately, my fears have come to pass. Many other Members of Congress have also been concerned about this issue.

The Satellite Home Viewers Improvement Act, S. 247, which I sponsored with the Chairman of the Judiciary Committee, Senator HATCH, the Chairman of the Commerce Committee, Senator MCCAIN, the ranking member of our antitrust subcommittee, Senator KOHL, and the Majority Leader of the Senate, Senator LOTT, offered the way to promote head-to-head competition between cable and satellite providers—and lower rates and provide more services for consumers.

In November of 1997, we held a full Committee hearing on satellite issues. I agreed with Chairman HATCH to work together on a bill to try to avoid needless cutoffs of satellite TV service while, at the same time, working to protect the local affiliate broadcast system and increase competition.

In March of last year we introduced a bill but were unable to get it to the President for signature. That version was reported out of the Judiciary Committee unanimously on October 1, 1998. That bill, as with the bill I am trying to get to the President's desk this year, was also designed to permit local TV signals, as opposed to distant out-of-state network signals, to be offered to viewers via satellite; to increase competition between cable and satellite TV providers; to provide more PBS programming by also offering a national feed as well as local programming; and to reduce rates charged to consumers.

In the midst of all these legislative efforts, a federal district court judge in Florida found that PrimeTime 24 was offering distant CBS and Fox television signals to more than one million households in the U.S. in a manner inconsistent with its compulsory license that allows them to offer distant network signals. This development further complicated the situation.

Under a preliminary injunction, the satellite service of CBS and Fox networks was to be terminated on October

8, 1998 for thousands of households in Vermont and other states who had signed up after March 11, 1997, the date the action was filed.

I was pleased that we worked together in the Senate Judiciary Committee to avoid these immediate cutoffs of satellite TV service in Vermont and other states. The parties agreed to request an extension which was granted until February 28, 1999. This extension was also designed to give the FCC time to address this problem faced by satellite dish owners.

In December, I sent a comment to the FCC and criticized their proposals on how to define the ''white area''—the area not included in either the Grade A or Grade B signal intensity areas. My view was that the FCC proposal would cut off households from receiving distant signals based on ''unwarranted assumptions'' in a manner inconsistent with the law and the clear intent of the Congress. I complained about entire towns in Vermont which were to be inappropriately cut off when no one could receive signals over the air.

The Florida district court filed a final order which also required that households signed up for satellite service before March 11, 1997, be subject to termination of CBS and Fox distant signals on April 30, 1999, if they lived in areas where they are likely to receive a grade B intensity signal and are unable to get the local CBS or Fox affiliate to consent to receipt of the distant signal.

In the meantime, further Court and other developments have resulted in cutoffs of thousands of satellite dish owners. This situation is unacceptable, and I will continue to work to fix this problem.

## END THE CYCLE OF VIOLENCE IN KOSOVO

Mr. LEVIN. Mr. President, the news out of Kosovo concerning the commission of atrocities against Serbs and Gypsies is deeply troubling.

According to a report released on Tuesday by Human Rights Watch ''for the province's minorities, and especially the Serb and Roma (Gypsy) populations, as well as some ethnic populations perceived as collaborators or as political opponents of the Kosovo Liberation Army (KLA), these changes have brought fear, uncertainty, and in some cases violence.'' The report adds that ''The intent behind many of the killings and abductions that have occurred in the province since early June appears to be the expulsion of Kosovo's Serb and Roma population rather than a desire for revenge alone.''

Mr. President, the massive atrocities committed against the ethnic Albanian population of Kosovo pursuant to Slobodan Milosevic's ethnic cleansing policy have been appropriately condemned by the international community. The United States and our NATO allies have invested a great deal of resources and put their sons and daughters at risk to stop the atrocities and to reverse the ethnic cleansing. But they did not do so to allow the former victims to commit atrocities against or seek to ethnically cleanse the Serbs and Gypsies.

When I visited Kosovo in the first week of July along with Senators REED, LANDRIEU and SESSIONS, we met with Hashim Thaci, political leader of the KLA and Colonel Agim Ceku, the KLA military commander. We condemned the violence being perpetrated against the Serbs and asked them to speak out against the mistreatment of the Serbs. They stated to us they have publicly called for the Serbs to stay and for those who have left to return provided they had not previously committed atrocities.

Mr. President, words are important but deeds are more important. I realize that the KLA is not a highly-disciplined organization and that there are extremists within the KLA who do not answer to either Mr. Thaci or Colonel Ceku. I also realize that not all those who are presently committing atrocities are members of the KLA. But Mr. Thaci and Colonel Ceku and other Albanian leaders must do more to bring an end to the cycle of violence in Kosovo.

According to the UN High Commissioner for Refugees, more than 164,000 Serbs have left Kosovo during the seven weeks since Yugoslav and Serb forces withdrew and KFOR entered Kosovo, and the number continues to rise. The military troops of the NATO-led KFOR are not trained to be policemen and the enforcement of day-to-day law and order is not and should not be their mission. The United Nations has only deployed about 400 civilian police to Kosovo. The deployment of the international civilian police force to Kosovo must be accelerated. The cycle of violence in Kosovo must stop.

I visited with the ethnic Albanian refugees in the camps in Macedonia and was sickened at their horrific stories of their mistreatment at the hands of the Serbs. I was a strong supporter of the NATO air campaign against Serbia and of the deployment of the NATO-led KFOR. I support the reconstruction of Kosovo and the creation of an autonomous multi-ethnic Kosovo. But none of us, no matter what position we took on other issues involved in NATO's action in Kosovo, can accept criminal acts against Serbs and Gypsies in Kosovo.

President Clinton and the leaders of our NATO allies won the support of their citizens for the NATO air campaign and subsequent peacekeeping mission in part because it was the humane thing to do. Americans and Europeans alike were deeply upset at the plight of the ethnic Albanian refugees. That support will dissipate if the cycle of violence in Kosovo does not stop.

I call on NATO, the United Nations, the leaders of the ethnic Albanian community in Kosovo, particularly Mr. Thaci and Colonel Ceku, and the law abiding citizens of Kosovo, to act and act now to show their rejection of lawlessness and violence. The cycle of violence must stop.

## PESTICIDES AND CHILDREN'S HEALTH

Mr. KENNEDY. Mr. President, this week, the Environmental Protection Agency announced the first major steps under the Food Quality Protection Act of 1996 to protect children from overexposure to two widely used pesticides. Organophosphate chemicals, such as these two pesticides, kill insects by disrupting nerve impulses. Unfortunately, these chemicals have the same effect on humans, and children are especially vulnerable because of their developing bodies and the high proportion of fruits and vegetables in their diets. Effective protection against these two pesticides is an important step in implementing the Act as Congress intended.

These steps by EPA to comply with the law are critical to ensure the health and safety of the nation's children. These actions are welcome, and EPA must continue to carry out its important mission to assess tolerance levels for pesticides that pose the highest risks to children. Much work remains to be done.

Timely and complete implementation of the Act is essential, but we need to know more to assure that all children are protected from the harmful effects of pesticides. I have asked the General Accounting Office to evaluate the technologies used to assess immune, reproductive, endocrine, and neurotoxic effects of pesticides on children. GAO will also report on current research on links between pesticides and child health and disease. In particular, I have asked the GAO to evaluate whether the Act is being implemented adequately to protect the health and safety of the nation's children.

Our children are our greatest natural resource. The goal in passing the Act was to set a strong public health standard to protect them, and EPA has a clear responsibility to implement the Act in accord with that standard.

## LET'S SEEK BALANCE IN REFUGEE FUNDING

Mr. FEINGOLD. Mr. President, I rise today to bring my colleagues' attention to the plight of refugees in Africa. Just last week we have been reminded yet again of the disparity in the resources provided to assist those in need on the African continent compared to those in Europe. At a briefing to the U.N. Security Council on July 26, United Nations High Commissioner for Refugees (UNHCR) Sadako Ogata outlined some of the desperate problems facing the over 1.5 million refugees the agency currently counts in Africa. These problems are aggravated by a serious shortfall in international funding for UN refugee efforts. By some accounts, only 60% of the UNHCR's $137

million budget for general programs for Africa has been funded to date. The total UNHCR funding for all of Africa for 1999, including the general program, special programs, and emergencies, is only $302 million. That compares to $520 million set aside just for special programs and emergencies for the Former Yugoslavia.

The international response to the refugee crisis in Africa remains woefully inadequate. The situation is made even worse by the disparity between the donations offered to assist European refugees and those offered to support African refugees. As Mrs. Ogata so succinctly noted on July 26, ''Undeniably, proximity, strategic interest and extraordinary media focus have played a key role in determining the quality and level of response.'' While this may explain why Kosovo has received far greater refugee assistance than have the multiple crises in Africa, it can not justify that imbalance. The suffering of a family driven from its home or a child wrenched from its family by war is no less because it happens in Africa, away from the media glare and the familiar sources of conflict in Europe.

While I understand that there are necessary limits to the resources available for the millions of refugees in the world, I believe we should render our precious contribution to humanitarian assistance in a fair and balanced manner. As I have said many times on this floor—why Kosovo and not Sudan or Sierra Leone or Rwanda? To those who will cite our ''strategic'' interests in Europe, I respond that I believe our ''moral'' interests are also critically important to this nation's standing in the world.

I appreciate the State Department's announcement of an additional mid-year $11.7 million contribution to the UNHCR's general program, of which $6.6 million was designated for Africa. This is a good start, but it still falls far short of what Africa needs and what Europe gets. It does not please me to have to highlight the regional disparity in refugee assistance. But I believe it is important for the Senate to be on record in strong support of a fair and balanced effort to meet the needs of refugees throughout the world.

## STATE SOVEREIGN IMMUNITY FROM INTELLECTUAL PROPERTY LAWSUITS

Mr. SPECTER. I was surprised by the three decisions of the Supreme Court of the United States on June 23, 1999 which drastically reduced the Constitutional power of Congress and even more surprised by the lack of reaction by Members of the House and Senate to this usurpation of Congressional authority. [*College Savings Bank* v. *Florida Prepaid* 1999 U.S. LEXIS 4375, *Florida Prepaid* v. *College Savings Bank* 1999 U.S. LEXIS 4376 and *Allen* v. *Maine*, 1999 U.S. LEXIS 4374.]

Even though ignored by the Congress, these decisions have been roundly criticized by the academicians. Stanford University historian Jack Rakove, author of ''Original Meanings'', a Pulitzer Prize winning account of the drafting of the Constitution, characterizes Justice Kennedy's historical argument in *Alden* v. *Maine* as ''strained, even silly''.

Professor Rebecca Eisenberg of the University of Michigan Law School, in commenting on Florida Prepaid Postsecondary Education Expense Board versus College Savings Bank, said:

> ''The decision makes no sense'', asserting that it arises from ''a bizzarre states' rights agenda that really has nothing to do with intellectual property.''

Harvard Professor Laurence Tribe commented:

> ''In the absence of even a textual hint in the Constitution, the Court discerned from the constitutional 'either' that states are immune from individual lawsuits.'' (These decisions are) ''scary''. ''They treat states' rights in a truly exaggerated way, harking back to what the country looked like before the civil war and, in many ways, even before the adoption of the Constitution.''

In addition to treating the Congress with disdain, the five person majority in all three cases demonstrated judicial activism and exhibited what can only be viewed as a political agenda in drastically departing from long-standing law. Former Solicitor General Walter Dellinger described these cases as: ''one of the three or four major shifts in constitutionalism we've seen in two centuries.''

A commentary in The Economist on July 3, 1999 emphasized the Court's radical departure from existing law stating:

> The Court's majority has embarked on a venture as detached from any constitutional moorings as was the liberal Warren Court of the 1960's in its most activity mood.

In its two opinions in College Savings Bank versus Florida Prepaid and Florida Prepaid versus College Savings Bank, the Court held that the doctrine of sovereign immunity prevents states from being sued in Federal court for infringing intellectual property rights. In reaching these decisions, the Court discussed and dismissed two laws passed by Congress for the specific purpose of subjecting the states to suits in Federal Court: the Patent Remedy Act and the Trademark Remedy Clarification Act.

These decisions leave us with an absurd and untenable state of affairs. Through their state-owned universities and hospitals, states participate in the intellectual property marketplace as equals with private companies. The University of Florida, for example, owns more than 200 patents. Furthermore, state entities such as universities are major consumers of intellectual property and often violate intellectual property laws when, for example, they copy textbooks without proper authorization.

But now, Florida and all other states will enjoy an enormous advantage over their private sector competitors—they will be immune from being sued for intellectual property infringement. Since patent and copyright infringement are exclusively Federal causes of action, and trademark infringement is largely Federal, the inability to sue in Federal court is, practically speaking, a bar to any redress at all.

The right of states to sovereign immunity from most Federal lawsuits is guaranteed in the Eleventh Amendment to the constitution, which provides that:

> The Judicial Power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any foreign state.

It has long been recognized, however, that this immunity from suit is not absolute. As the Supreme Court noted in one of the Florida Prepaid opinions, the Court has recognized two circumstances in which an individual may sue a state:

> First, Congress may authorize such a suit in the exercise of its power to enforce the Fourteenth Amendment—an Amendment enacted after the Eleventh Amendment and specifically designed to alter the federal-state balance. Secondly, a state may waive its sovereign immunity by consenting to suite.—College Savings Bank versus Florida Prepaid at 7.

Congress' power to enforce the Fourteenth Amendment is contained in Section Five of the Fourteenth Amendment, which provides that ''The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.'' One of the provisions of the Fourteenth Amendment, Section One, provides that no State shall, ''deprive any person of . . . property . . . without due process of law.'' Accordingly, Congress has the power to pass laws to enforce the rights of citizens not to be deprived of their property—including their intellectual property—without due process of law.

Employing this power under Section 5 of the Fourteenth Amendment, Congress passed the Patent Remedy Act and the Trademark Remedy Clarification Act in 1992. As its preamble states, Congress passed the Patent Remedy Act to ''clarify that States . . . are subject to suit in Federal court by any person for infringement of patents and plant variety protections.'' Congress passed the Trademark Remedy Clarification Act to subject the States to suits brought under Sec. 43 of the Trademark Act of 1946 for false and misleading advertising.

In Florida Prepaid versus College Savings Bank, the Court held in a 5 to 4 opinion that Congress did not validly abrogate state sovereign immunity from patent infringement suits when it passed the Patent Remedy Act. In an opinion by Chief Justice Rehnquist, the Court reasoned that in order determine whether a Congressional enactment validly abrogates the States' sovereign immunity, two questions must be answered, ''first, whether Congress has unequivocally expressed its intent to abrogate the immunity . . . and second

whether Congress has acted pursuant to a valid exercise of power.''

The Court acknowledged that in enacting the Patent Remedy Act, Congress made its intention to abrogate the States' immunity unmistakably clear in the language of the statute. The Court then held, however, that Congress had not acted pursuant to a valid exercise of power when it passed the Patent Remedy Act. The Court wrote that Congress' enforcement power under the Fourteenth Amendment is ''remedial'' in nature. Therefore, ''for Congress to invoke Section 5 it must identify conduct transgressing the Fourteenth Amendment's substantive provisions, and must tailor its legislative scheme to remedying or preventing such conduct.'' Florida Prepaid versus College Savings Bank at 20.

The court found that Congress failed to identify a pattern of patent infringement by the States, let alone a pattern of constitutional violations. The Court specifically noted that a deprivation of property without due process could occur only where the State provides inadequate remedies to injured patent owners. The Court then observed that:

> Congress, however, barely considered the availability of state remedies for patent infringement and hence whether the States' conduct might have amounted to a constitutional violation under the Fourteenth Amendment * * *. Congress itself said nothing about the existence or adequacy of state remedies in the statute or in the Senate Report, and made only a few fleeting references to state remedies in the House Report, essentially repeating the testimony of the witnesses.—Florida Prepaid versus College Savings Bank at 27–28.

Accordingly, the Court concluded that:

> The legislative record thus suggests that the Patent Remedy Act does not respond to a history of widespread and persisting deprivation of constitutional rights of the sort Congress has faced in enacting proper prophylactic Section 5 legislation. Instead, Congress appears to have enacted this legislation in response to a handful of instances of state patent infringement that do not necessarily violate the Constitution.) Florida Prepaid versus College Savings Bank at 31–32.

Not only is the result of this opinion troubling—that states will enjoy immunity from suit—but so is the reasoning which supports this result. Here we have a Chief Justice of the Supreme Court choosing to ignore an act of Congress because he has concluded that Congress passed the legislation with insufficient justification. In essence, the Chief Justice is telling us we did a poor job developing our record before passing the Patent Remedy Act. As we all know, however, many of us support legislation for reasons that don't make it into the written record. The record is an important, but imperfect, summary of or views. This is why past Courts have been reluctant to dismiss Congressional motives in this fashion.

In College Savings Bank versus Florida Prepaid, the Supreme Court decided in a 5 to 4 opinion that Trademark Remedy Clarification Act (the ''TRCA'') was not a valid abrogation of state sovereign immunity. The Court, in an opinion by Justice Scalia, noted that Congress passed the TRCA to remedy and prevent state deprivations of two types of property rights: (1) a right to be free from a business competitor's false advertising about its own product, and (2) a more generalized right to be secure in one's business interests. The Court contrasted these rights with the hallmarks of a protected property interest, namely the right to exclude others.

Justice Scalia reached the surprising conclusion that protection against false advertising secured by Section 43(a) of the Lanham Act does not implicate property rights protected by the due process clause so that Congress could not rely on its remedies under Section 5 of the 14th Amendment to abrogate state sovereign immunity. If conducting a legitimate business operation with protection from false advertising is not a ''property right'', it is hard to conceive of what is business property. That Scalia rationale shows the extent to which the Court has gone to invalidate Congressional enactments.

The Court then discussed whether Florida's sovereign immunity, though not abrogated, was voluntarily waived. Here, the Court expressly overruled its prior decision in *Parden* v. *Terminal R. Co*. 377 U.S. 184 (1964) and held that there was no voluntary waiver. In Parden, the Court had created the doctrine of constructive waiver, which held that a state could be found to have waived its immunity to suit by engaging in certain activities, such as voluntary participation in the conduct Congress has sought to regulate. Since Congress has sought to regulate interstate commerce, then a state which participated in interstate commerce by registering and licensing patents would be held to have voluntarily waived its immunity to a patent infringement suit. By overruling Parden, however, the Court held that a voluntary waiver of sovereign immunity must be expressed. Florida made no such express waiver of its sovereign immunity.

In other relatively recent cases, the Court has gone out of its way, almost on a personal basis, to chastise and undercut Congress. The case of *Sable* v. *FCC*, 492 U.S. 115 (1989) provides a striking example of this trend. In Sable, the Court struck down a ban on ''indecent'' interstate telephone communications passed by Congress in 1988. In rejecting this provision, the Court focused on whether there were constitutionally acceptable less restrictive means, short of a total ban, to achieve its goal of protecting minors. The Court then declared, in unusually dismissive and critical language, that Congress had not sufficiently considered this issue:

> * * * aside from conclusory statements during the debates by proponents of the bill . . . that under the FCC regulations minors could still have access to dial-a-porn messages, the congressional record presented to us contains no evidence as to how effective or ineffective the FCC's most recent regulations were or might prove to be.
>
> The bill that was enacted . . . was introduced on the floor. . . . No Congressman or Senator purported to present a considered judgement with respect to how often or to what extent minors could or would circumvent the rules and have access to dial-a-porn messages.

If a member of the Congress made a judgement, by what authority does the Supreme Court superimpose its view that it wasn't a ''considered judgement''? A fair reading of the statements from the floor debate on this issue undercuts the Court's disparaging characterization of this debate. For example, Representative TOM BLILEY of Virginia gave a rather detailed and persuasive discussion of how he concluded that a legislative ban was necessary. Mr. BLILEY noted that in 1983, Congress first passed legislation which required the FCC to report regulations describing methods by which dial-a-porn providers could screen out underage callers. Mr. BLILEY then walks us through the repeated failure of the FCC to pass regulations which could withstand judicial scrutiny. Finally, Mr. BLILEY notes that:

> . . . it has become clear that there was not a technological solution that would adequately and effectively protect our children from the effect of this material. We looked for effective alternatives to a ban—there were none.

The Court repeats its critique of Congressional action in the case of *Reno* v. *ACLU*, 521 U.S. 844 (1997). Here the Court struck down the Communications Decency Act, which prohibited transmission to minors of ''indecent'' or ''patently offensive'' communications. In this opinion, the Court again discusses whether less restrictive means were available and again concludes that Congress had not sufficiently addressed the issue. The opinion notes that:

> The Communications Decency Act contains provisions that were either added in executive committee after the hearings [on the Telecom Act] were concluded or as amendments offered during floor debate on the legislation. . . . No hearings were held on the provisions that became the law.

The Court in Reno later notes that, ''The lack of legislative attention to the statute at issue in Sable suggests another parallel with this case.''

Once again, if Congress passes a law, by what authority does the Supreme Court conclude that we did not devote sufficient legislative attention to the law? In the Reno opinion itself the Court noted that some Members of the House of Representatives opposed the Communications Decency Act because they thought that less restrictive screening devices would work. These members offered an amendment intended as a substitute for the Communications Decency Act, but instead saw their provision accepted as an additional section of the Act. In light of this record, how can the Court say that Congress did not consider less restrictive means?

A recent trend in Supreme Court decisions, highlighted by these three cases, shows an activist court with a political agenda determined to restructure political power in America away from Congress and to the states. What is Congress to do? We could exercise greater care in the confirmation process, but that is hardly the answer. Supreme Court nominees in Senate confirmation hearings routinely promise to respect Congressional authority and not to make new law. Once on the Court, many of the justices ignore those commitments.

The decision in Florida Prepaid versus College Savings Bank leaves a slight opening for Congress to legislate again under Article 5 of the 14th Amendment to narrowly tailor a legislative approach to satisfy the Court. Given the intensity of the Court's agenda and its inventive and extreme rationales for declaring Congressional actions unconstitutional, it is highly doubtful that anything the Congress does will satisfy the Court in its current campaign.

Congress may have to initiate a constitutional amendment to re-establish its legitimate authority. Before these three cases, it was unthinkable that Congress' authority over trademarks, patents and copyrights would have been undercut by a doctrine of state sovereign immunity. How could that be in the face of the provisions of Article 1, Section 8 granting the Congress express authority over trademarks, patents and copyrights by its enumerated power:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries

These important issues merit immediate and extensive consideration by the Congress. Perhaps a constitutional amendment is the only way to reinstate the balance between the authority of the Congress and the usurpation by the Supreme Court.

## RECOGNIZING THE WORK OF THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

Mr. KENNEDY. Mr. President, with the announcement of his proposal to modernize and strengthen Medicare, President Clinton has demonstrated that we can achieve needed Medicare reform without compromising our clear commitment to the fundamental principles of that basic and highly successful program. Our goal is to preserve and strengthen Medicare, so that it effectively meets the needs of all senior citizens in the years ahead, as it has done so well for the past thirty-four years.

Above all, we must reject any proposals that undermine the ability of senior citizens to obtain the health care they need, or that attempt to transform Medicare into a voucher program, as the Medicare Commission's recommendations and other premium support plans do. Such proposals are risky schemes. They abandon Medicare's successful social insurance compact, and current guarantee of a defined benefit. Premium support proposals could price conventional Medicare out of reach and force senior citizens to join HMOs. They threaten to compromise the quality of care and reduce access to care. That is unacceptable to senior citizens, and it should be unacceptable to members of Congress.

There are a number of hard-working organizations dedicated to the well-being of senior citizens. I welcome this opportunity to comment on one such group—a distinguished public interest organization that works effectively to protect the interests of senior citizens and ensure fairness in Medicare reform. The National Committee to Preserve Social Security and Medicare is a major leader in the national effort to protect and strengthen both Social Security and Medicare. I commend the Committee and its members for their commitment and their leadership, and I look forward to working closely with them in the critical weeks and months ahead to achieve the great goals we share.

## THE EMERGENCY STEEL LOAN GUARANTEE AND EMERGENCY OIL AND GAS GUARANTEED LOAN ACT OF 1999

Mr. BYRD. Mr. President, last night, the U.S. House of Representatives passed the conference report to H.R. 1664, the bill containing the Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan programs, by a vote of 246 yeas to 176 nays. H.R. 1664 was passed by the Senate on June 18, 1999.

The steel and oil and gas loan guarantee programs will provide qualified U.S. steel producers and small oil and gas producers with access to a $1.5 billion GATT-legal, revolving loan guarantee fund to back loans through the private market. A board of the highest caliber—consisting of the Chairman of the Board of Governors of the Federal Reserve System, who will serve as the Chair, the Secretary of Commerce, and the Chairman of the Securities and Exchange Commission—will oversee the programs. These distinguished board members will ensure careful analysis of the guarantee award process, including actions needed by U.S. steel mills and oil and gas producers to secure a financial recovery along with a reasonable prospect for repayment of the federally guaranteed loans. The loan guarantee programs are written to provide the board members with the flexibility necessary to offer the maximum benefit to U.S. steel and oil and gas businesses and the maximum protection to the taxpayers.

The passage of H.R. 1664 is a vital measure for both the U.S. steel industry and the oil and gas industry, and it was a personal pleasure for me to work with the fine Senator from New Mexico, Mr. DOMENICI, on this important legislation. I authored the steel loan guarantee provisions, while my good friend Senator DOMENICI authored the provisions for oil and gas. After several long nights, some tough negotiations, and countless consultations, H.R. 1664, a bill that joined our two programs, will deliver critical assistance to hard working Americans. H.R. 1664 is, indeed, a ''buy American bill.'' But, more importantly, the passage of H.R. 1664 is a vote of confidence for American workers and American families.

Passage of H.R. 1664 is an important statement by this Congress in support of the men and women in the U.S. steel industry. These workers have played by the global trade rules only to find themselves cheated by our trading partners who ignore the rules in order to maximize their own profits. Illegal steel trade has created exceedingly difficult finanical circumstances for the U.S. steel industry, and the U.S. steel industry deserves the benefits provided under H.R. 1664. Those benefits simply will provide essential loan guarantees to address the cash flow emergency created by the historic surge of cheap and illegal steel. They are vital to the future viability of many, many steel jobs.

The historic level of illegally dumped imported steel is a national crisis. The record levels of these foreign imports have caused over 10,000 thousand U.S. steelworkers to experience layoffs, short work weeks, and reduced pay. American steel companies have suffered from reduced shipments, significant drops in orders, price depression, lower profits, and worse. Already, at least six U.S. steel manufacturers have filed for Chapter 11 bankruptcy protections, jeopardizing employees, families, and entire communities. This steel loan guarantee program can help to prevent further bankruptcies, and provide vitally important support for the survival of small- and medium-sized steel manufacturers.

Steel communities are proud of their role throughout this nation's history. Through the work of men and women in places like Weirton, West Virginia, and Pittsburgh, Pennsylvania, the backbone of this nation was forged. Steel has always been a driving force in the growth and prosperity of our nation.

I applaud the action by this Congress in passing H.R. 1664. It was the right thing to do. I urge the President to quickly sign the bill into law. These loan guarantee programs will operate through the private market to help sustain good-paying jobs, support our national security, and save taxpayers millions of dollars from lost tax revenues and increased public assistance payments.

Mr. DOMENICI. Mr. President, I say to Senator BYRD, in both the steel and the oil and gas loan guarantee programs, the legislation provides that loan guarantees may be issued upon application of the prospective borrower

(section 101(g) for the Steel Loan Guarantee Program and section 201 (f) for the Oil and Gas Loan Guarantee Program). Ordinarily, the applicant for a loan guarantee is the prospective lender. Am I correct in assuming that that would be the case under these programs, and that the true intent of the language in the legislation is that the prospective lender is the applicant?

Mr. BYRD. Yes, the Senator from New Mexico is correct in that assumption. It will be the lender that obtains the direct benefits of a loan guarantee, and it is the prospective lender that will be required to submit necessary application materials for the guaranty. The prospective borrower will, of course, also have to submit information and other material as part of the application for a loan guarantee, but under each program it is the lender with whom the Loan Guarantee Board will have its legal relationship. Therefore, it is the prospective lender that will be required to apply for assistance under these programs.

Mr. DOMENICI. It is possible that under each of these programs there may be many, many eligible firms—more under the Oil and Gas Loan Guarantee Program, but potentially a high number under the Steel Loan Guarantee Program, as well—particularly as there is no ''floor'' or minimum amount of loan that may be guaranteed. Would the Loan Guarantee Boards have the discretion to establish priorities and criteria for the consideration of applications and award of guarantees, so that projects could be considered in an orderly manner, and there could be a proper mix of loan risks, to maximize the effectiveness of the programs within the amount appropriated for program costs?

Mr. BYRD. The Loan Guarantee Boards would absolutely have that discretion. The clear intent of this legislation is to effectuate the guarantee of up to $1.5 billion of loans under the two programs. There is no requirement for first-come, first-served among applicants. The Boards may impose additional reasonable requirements for participation in the programs. It is, indeed, our intent to look to the judgment and expertise of the administering agencies, the experience and competence of professional advisors, and the wisdom and common sense of the Loan Guarantee Boards themselves to make these programs run effectively. It is not our intent to hamstring the Boards in determining their priorities and procedures; rather, we expect the Boards to implement these programs as to ensure the fulfillment of the Congressional purpose.

Mr. DOMENICI. I note that the legislation requires the Loan Guarantee Boards to establish procedures, rules and regulations, but appropriates money to the Department of Commerce to administer the programs. Am I correct in assuming that this is because the Boards themselves are not expected to actually administer the programs, but only to adopt rules and procedures, and approve guarantees and amendments? And am I correct in further assuming that, subject to the direction of the Loan Guarantee Boards, the Department of Commerce is expected to prepare proposed rules and procedures for the Boards' consideration; on behalf of the Boards, publish regulations in the Federal Register; process applications for guarantees; and undertake the day-to-day administration of the programs?

Mr. BYRD. Yes, those are correct assumptions. While the Boards will have the ultimate decision-making responsibilities, and will take the actions directed by the legislation, as a practical matter they are not expected to handle the day-to-day work of administering loan guarantee programs. That will be handled through the Department of Commerce, using its own staff, contracting for the consultants and other services, or through agreements with another agency or agencies.

Mr. DOMENICI. Many qualified steel companies are currently in bankruptcy, or have existing debt with covenants in those investments that provide for seniority for such existing debentures. In determining loan security, is it not the intent of this legislation to give the Board the discretion to use its professional judgment to determine the nature, kind, quality and amount of security required for a loan guarantee?

Mr. BYRD. That is correct. The Board has the flexibility to use a combination of factors, including prospective earning power, in determining loan security terms and conditions.

Mr. DOMENICI. I note that the legislation in section 101 (j), appropriates $5 million to the Department of Commerce, for necessary expenses to administer the Steel Loan Guarantee Program. Similarly, in section 201 (i), $2.5 million is appropriated to the Department for necessary expenses to administer the Oil and Gas Loan Guarantee Program. In each case, the legislation provides that the appropriation, ''may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.'' The operative word here is ''may.'' Do I correctly assume that the Secretary of Commerce has the discretion to determine where funds provided for under these programs can be most effectively administered?

Mr. BYRD. That is an accurate assumption. The Secretary is authorized under the legislation to assign administration of the programs as he sees fit, to accomplish their effective administration.

Mr. DOMENICI. I ask whether the full faith and credit of the United States will stand behind the guarantees to be executed by the Loan Guarantee Boards. This is of course an important matter for prospective lenders, determining perhaps at what interest rates a guaranteed loan would be made, or indeed whether a loan would be made at all. Am I correct in my assumption that although the bill does not specifically say so in so many words, the full faith and credit of the United States will in fact stand behind the loan guarantees?

Mr. BYRD. My good friend from New Mexico is correct. Under this legislation, the full faith and credit of the United States will, in fact, stand behind each loan guarantee executed by the Loan Guarantee Board, the same as if the legislation specifically said so. Lenders may participate in this program with confidence, and should therefore offer the borrowers the very best terms—including low interest—on the guaranteed loans.

Mr. DOMENICI. This is indeed important legislation, but I ask whether regulations promulgated to implement the legislation would be a ''major rule'' as that term is used in the Congressional Review Act (5 U.S.C. 804). Generally, any rule that has a $100 million effect on the economy in a single year is considered to be a major rule, and cannot go into effect until 60 days after the rule is submitted to Congress for review and possible disapproval. But, if the loan guarantee regulations are considered a major rule, delaying their effect would appear to be inconsistent with the language and intent of the legislation. Once regulations promulgated under this legislation are written, cleared by OMB, filed with Congress, and published in the Federal Register, I assume they would go into effect right away. Is this correct?

Mr. BYRD. Yes, that assumption is accurate. Any rule issued to implement this program could be considered a ''major rule'' under the Congressional Review Act, and subject to the delayed effective date. However, the legislation itself recognizes the urgency of the programs: section 101(l) provides that the Steel Loan Guarantee Board ''shall issue such final procedures, rules, and regulations as may be necessary to carry out this section not later than 60 days after the date of enactment of this Act.'' Identical language appears for the Oil and Gas Loan Guarantee Board, in section 201(k). Due to this urgency, we expect the Administration to apply the provisions of the Congressional Review Act which allow even a major rule to go into effect without delay, consistent with the public interest.

## FIFTIETH ANNIVERSARY OF THE DARLINGTON MOTOR SPEEDWAY

Mr. THURMOND. Mr. President, nestled in the flat, hot tobacco country of South Carolina's Pee Dee region is an egg-shaped track that is one of the most revered spots in all of auto racing, the ''Darlington Raceway''. As anyone even remotely familiar with NASCAR can tell you, for 50 years this September, the Darlington Raceway has not only been home to the most exciting race in motor sports, the

''Southern 500'', it has also earned the ominous and accurate nickname as the track ''too tough to tame''.

For five decades, people from around the world have traveled to this otherwise quiet city in order to be spectators in this contest of driving and mechanical skill. The atmosphere is festive, with the infield and stands packed to capacity with racing enthusiasts who are willing to brave the cruel heat, stifling humidity, and unforgiving sun in order to see which driver is able to prove that his mettle is equal to the asphalt and curves that make-up this 1.36 mile track. In 1950, the year of the first race, 25,000 people turned out as spectators, this year, there will be more than 100,000 race fans at Darlington, and millions more around the globe will follow the action on radio or television. That is a testament to both the popularity of NASCAR and the respect that the Darlington Raceway has among drivers and race fans.

To those who have never made it to Darlington, it might be hard to understand the attraction of this sport, but for those of us who have witnessed this race up close, there is no question why people love to go to this track. There is something truly awe inspiring about standing close to one of the turns at Darlington and watching stock cars engineered and built to the ultimate standards roll past as they race to be the first to finish the 500 grueling miles that must be completed in order to win the ''Southern 500''. These cars rumble past at well over 100 miles-per-hour with only inches between bumpers, and as they go through one of the four turns of the track, the earth literally shakes under one's feet and the air is thick with the deafening roar of engines and the fumes of high performance fuel. It takes individuals of tremendous mechanical skill to put one of these vehicles on the track, and other men of incredible determination, skill, and grit to compete in these races. One cannot help but come away amazed at the abilities of these drivers and crews, or at the challenge the Darlington Raceway presents to these individuals.

In 1950, I was serving in my final year as Governor of the State of South Carolina, and on September 1st of that year, I had the distinct honor and privilege of cutting the ribbon that opened the Darlington Motor Speedway. Nothing would give me greater pleasure than to be able to celebrate the golden anniversary of the opening of the Speedway in person, but regrettably my schedule does not permit me to be in Darlington early next month. Instead, I have chosen to take to the Senate Floor to salute the vision of Harold Brasington, the man who built the Darlington Speedway. I also want to salute Jim Hunter, President of Darlington Raceway; Bill France, Jr., the President and CEO of International Speedway Corporation, as well as the President of NASCAR; and most importantly, to express my greetings and well wishes to all the drivers, crews, and fans who will descend there on September 5, 1999 to see who will tame this track.

## THE FEDERAL RESEARCH INVESTMENT ACT

Mr. KENNEDY. Mr. President, I welcome this opportunity to express my strong support for S. 296, the Federal Research Investment Act, which was introduced earlier this year by Senator FRIST and Senator ROCKEFELLER, and was reported favorably by the Commerce Committee earlier this month. This legislation is important for the future of the nation's economy and our competitive position in the global market-place.

A key ingredient in the continued success and growth of our economy is federal investment in research and development. Much of America's technological leadership today and in the past has been stimulated by federal R&D expenditures, and we need to continue to strengthen these investments as a top national priority.

The results of this public-private partnership are all around us. They include the biotechnology industry, commercial satellite communications, integrated circuitry, the Internet, satellite-based global navigation and communications, and supercomputers.

The Act calls for doubling the federal non-defense science budgets over the next eleven years. As a share of GDP, federal investment in R&D now stands at about half what it was 30 years ago. This share is projected to continue to fall under the current budget caps. Clearly, a strong commitment is needed for investment in R&D funding for basic sciences. Without a strong commitment, the worsening imbalance in R&D funding will have a negative impact on the economy and the nation's competitive position.

I strongly support the effort to double the federal R&D budget. It is one of the most effective ways to ensure the continued prosperity of our nation. It is imperative that we continue making these investments which have made Massachusetts and many other states renowned for their innovative leadership. We must continue and enhance, not cut back, on these needed investments.

I commend Senator ROCKEFELLER and Senator FRIST for their leadership and vision on this critical piece of legislation, and I urge my colleagues to join in supporting this important Act.

Mr. ROCKEFELLER. Mr. President, I would like to join Senators FRIST and LIEBERMAN and other distinguished colleagues to commend the Senate for passing the Federal Research Investment Act. This legislation will set a long-term vision for federal funding of research and development programs so that the United States can continue to be the world leader in the research and innovation upon which our high-tech industry is based.

One only needs to look as far as the front page of the newspaper to see the effect of high-technology on our country. New drugs are becoming available for fighting cancer; new communication hardware is allowing more people to connect to the Internet; and advances in fuel-cell technology are leading to low-emission, high-efficiency alternative fuel vehicles. According to a 1998 National Science Foundation study, over seventy percent of all patent applications in America cite non-profit or federally funded research as a core component to the innovation being patented. Even at IBM, an industry leader in R&D, only 21 percent of its patent applications were based on company research. People are living longer, with a higher quality of life, in a better economy due to processes, procedures, and equipment which are based on federally funded research.

New technologies and products do not appear out of thin air. They are the result of a basis of knowledge which has been built up by researchers supported by federal funding. American companies draw from this knowledge base in developing the high-tech products which you and I read about in the paper and see on our store shelves everyday.

I view this knowledge base as an investment. The US government puts in modest amounts of funding in the form of support for scientific research. The dividends come from the economic growth which is produced as this knowledge is turned into actual products by American companies.

A large part of the current rosy economic situation is due to these high-tech industries. High-tech companies are responsible for one-third of our economic output and half of our economic growth. Alan Greenspan has said that new technologies are primarily responsible for the nation's phenomenal economic performance, low unemployment, low inflation, high corporate profits and soaring stock prices. If we want continued economic growth, we therefore need to support the fundamental, pre-competitive research critical to these industries, at the necessary levels, and in a stable manner from year to year—and we need to do so now.

Just three years ago, federal science funding was in a serious decline and fewer than half a dozen members of Congress gave it any attention. Now the connection between a healthy research enterprise and our nation's strong economic growth is widely understood. In the last two years the science budget has increased above inflation. In particular, for Fiscal Year 1999, an unprecedented 10 percent increase in civilian R&D funding was appropriated. Yet, somehow we appear to be once again in a situation where the future outlook for R&D funding is either declining, stagnating, or barely keeping pace with inflation. We must not only pass the Federal Research Investment Act, but we must continue

our fight to actually implement the R&D budgetary guidelines set forth in this bill.

Finally, let me just say that one of the original reasons that I became involved in technology issues, such as the EPSCoR and EPSCoT programs, was because I believe that technology should be shared by everyone, not just those in Silicon Valley or the Route 128 corridor in Massachusetts. Therefore, this bill should be seen as a means of allowing for diversity in our national innovation infrastructure—research must be allowed to flower in Montana, Alaska, West Virginia as well as the traditional centers of science.

In conclusion, we have put together a long-term vision for federal R&D funding which we hope will lead to real increases in federal funding for research and development. Federally funded research has been, and will continue to be, a driving power behind our economic success. If we are to maintain and enhance our current economic prosperity we must make sure that research programs are funded at adequate levels in a consistent long-term manner.

I thank my colleagues for their support of this bill and ask unanimous consent that both my comments and the news article from the Wheeling News-Register, ''Congress Must Act to Ensure That Vital Research Doesn't Lapse in U.S.,'' be printed in the RECORD.

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

[From the Wheeling News-Register, Tuesday, May 11, 1999]

CONGRESS MUST ACT TO ENSURE THAT VITAL RESEARCH DOESN'T LAPSE IN U.S.

(By Erich Bloch and Charles M. Vest)

Our nation is currently enjoying the longest period of sustained economic growth since World War II. Much of this growth is driven by competition and commercial reward for innovative companies that use new technologies to develop new products and services. These new technologies are possible only because of the nation's investment in research. Basic scientific and engineering research funded by the federal government and conducted at America's public and private universities is of particular importance. University research led to the laser, fiber optics and the Internet, which make the modern computing and telecommunications industries possible. It also discovered recombinant DNA techniques that have fueled the biotechnology industry, and made most of the advances of modern medicine.

The private sector also funds and conducts important research. Indeed, in many instances it took both government and industry funding to achieve the decisive result. The private sector's primary function is to advance technology and translate basic scientific knowledge into commercially useful devices and systems. But here too, the federal government has a critical role: it must provide a policy and regulatory framework that encourages and rewards private investment in research.

Although nearly all analysts agree that our strong economy is driven by research, we are not promoting and investing in new research at an acceptable level, in either the public or the private sector. This puts our future economy at substantial risk. Despite Washington's proclivity for slowing the growth of basic research funding, even in this time of record economic growth and increased tax revenues, this risk is being noted. Last year, for instance, both the House and Senate took major steps towards addressing their obligation in this regard.

The House of Representatives, taking its lead from Rep. Vernon Ehlers, a physicist and vice chairman of the Science Committee, unanimously approved key principles for federal involvement in science research. The Senate unanimously passed a bill promoting federal investment in research and development. These two congressional actions, together with a host of independent reports on investment in research, established a momentum that must be embraced and accelerated by the new Congress.

But Washington memories are short. Many a good idea has gotten buried between the end of one Congress and the start of a new one. Let's make sure this is not happening in this case. Despite the pressure that balancing the budget puts on Congress, we need to stay on the course that has proven to be so effective.

There is plenty of disagreement about the details of how U.S. science and technology policy should move forward. However, we wish to point to four recommendations of the House Science Committee's report that are especially worthy of strong bipartisan support in the 106th Congress.

First, Congress should give high priority to stable and substantial federal funding for fundamental scientific research. Federal support of fundamental research has declined as a percentage of gross domestic product during this decade. It is both ironic and frustrating that our research base has not benefitted from the very economic expansion it helped to create.

Second, the federal government should invest in fundamental research across a wide spectrum of disciplines in science, mathematics, and engineering. The seamlessness of science and technology and the interrelation of their many fields are demonstrated every day. For example, magnetic resonance imaging devices (MRIs), which have become lifesaving diagnostic tools in the medical professions, have their roots in physics, chemistry, mathematics, and electrical engineering.

Third, an increased focus on partnerships is needed. University-industry partnerships, government-industry partnerships, and three-way efforts are required today because of the complicated relationship between research and the needs and constraints of each sector.

Finally, the policy environment for research must be improved. The Research and Experimentation Tax Credit must be strengthened and made permanent. This credit has been on again, off again during the past 15 years, despite its effectiveness in stimulating private industry to invest in R&D.

At this point in the federal budget process, there is real danger that an expanded federal commitment to scientific research—a goal unanimously supported by Congress last year—may fall victim to larger political battles. Congress should ensure that R&D, especially fundamental research, receives the priority it deserves and that partnerships between government, academia, and the private sector are given a chance to succeed.

Mr. LIEBERMAN. Mr. President, I rise to praise S. 296, the Federal Research Investment Act of 1999, legislation designed to reverse a downward trend in the Federal Government's allocation to science and engineering research and development (R&D). S. 296 authorizes a 5.5% increase in funding per year for federally funded civilian R&D programs, through 2010. While the future of individual agencies, such as the National Institutes of Health or the National Science Foundation, remains with the authorizing committees, the bill establishes a long term commitment to sustaining the aggregate research and development portfolio during the annual budget cycle. The bill also puts in place a number of review and accountability measures to assure the public and Congress that, each year, the R&D funds are well spent. I am pleased to report that S. 296 passed the Senate last week, on July 28, 1999, by unanimous consent. It had 41 cosponsors, about equally divided between the two parties, including the Majority and Minority leaders. The magnitude of support for this bill reflects the growing realization that technological progress is the single largest factor, bar none, in sustaining economic growth.

Today we find ourselves in a ''New Economy.'' Everything about it defies conventional wisdom. Our unemployment rate is extremely low, but at the same time, our interest rates are low. The boom itself keeps going, defying expectations. In fact, the current economic boom is soon to be the longest one in our nation's history. Even our national debt has fallen far faster than economists had ever predicted it could. In retrospect, these happy miscalculations reflect a flaw in economic growth theory. Conventional economic wisdom at first underestimated the strength and depth of our New Economy because it ignored the substantial productivity gains generated by advances in technology, in this particular case, information technology. However, had we paid attention to history, we would have known better.

Almost a dozen major economic studies, including those of Nobel Prize laureate Robert Solow, have tracked economic growth over prior decades. These studies found that in every time period studied, approximately half of all economic growth was due to technological progress. The preponderance of the evidence provided by these economic studies has led Alan Greenspan to note in many of his recent speeches that in addition to the traditional forces of labor and capital, a very substantial portion of economic growth is now recognized to be due to technological innovation and the productivity increases it brings to the workplace. That technological innovation is what is sustaining our boom today. Beyond the effects of interest rates and fiscal policy, there are the dot.com's and the gazelle stocks, pushing our nation's technological wunderkind into untold riches, and pulling the rest of the nation along with them.

In an industrialized nation, the technological innovation so necessary for robust economic growth is generated by research and development (R&D). R&D is directly responsible for creation of the new products and processes which account for half or more of the growth in output per person, thereby fueling our economy. The private sector recognizes these connections—earlier this summer, Business Week devoted a entire issue, over a hundred pages, to highlighting the greatest scientific and technological innovations of the past 100 years. As the noted economist Lester Thurow puts it, ''The payoff from social investment in basic research is as clear as anything is ever going to be in economics.'' To drive home the economic impact of scientific R&D, I would like to bring up the specific example of biomedical research, which at least one analysis finds has a rate of return that is greater than $13 for every dollar invested.

This correlation between technology and economic growth is especially compelling today, and not just for the biomedical arena. On a local scale, scores of governors are striving to bring high tech corridors into their states. They know, intuitively, that future economic growth for their states depends on high tech. America's research-intensive industries have been growing at about twice the rate of the average economy over the past two decades. Job opportunities in information technology flood the newspaper want ads, an illustration of the Internet sector's 1.2 million new jobs in 1998. Moreover, high tech wages are 77% greater than the private sector average.

However, we have reached a crossroads in this era of technological growth. We must remember that the ultimate origins of today's high-tech companies, and hence the dramatic economic gains we now see, were a few seminal discoveries made in the mid-1960's. It was at that time that we, as a country, were seriously investing in research and development. Because of the 20–30 year time lag between basic scientific discovery and market product, that substantial federal investment is now bearing fruit in the form of our exceptionally robust economy in the 1990's.

Unfortunately, since the mid-1960's we have not maintained our investment in R&D. As a fraction of the federal budget, the federal government's support of R&D has dropped by ⅔ over the past 34 years. When expressed as a fraction of GDP, federal funding of R&D has declined to half its mid-1960's value. For certain individual disciplines, the future is bleak. A recent report from the National Academy shows that in the years between 1993 and 1997, federal funding for research in mechanical engineering declined 50.4%, that for electrical engineering declined 35.7%, that for physics declined 28.7%, and that for chemical engineering declined 12.9%. These decreases are not just abstract reductions in facilities and personnel at research labs, and students and professors in universities. They represent the very seed corn of our economic prosperity. We no longer have as robust a pool of ideas to germinate into fundamentally new industries; we no longer have the technically trained populace capable of fully cultivating and implementing those ideas. Meanwhile, other countries are stepping in to fill the gap. Thirteen countries now have greater funding for basic research as a fraction of GNP than we do. For non-defense research, Japan spends more than the US, even in absolute dollars.

The problem of declining US R&D funding is especially acute, and demands action now, because of the dynamics of the global economy. In order to compete in the global economy, industry R&D funding has become overwhelmingly (84%) and increasingly concentrated on product development/refinement, i.e, the last stage of R&D. Thus, for new product concepts, industry is correspondingly more dependent on the basic and applied research sponsored by the government. The connection is a direct one. Currently, 73% of all papers cited in industrial patents are the product of government and non-profit funded research. With our declining investment in government-funded R&D, coupled with the increased appetite of industry for new market products and technologically literate workers, the government is stripping US industry of the knowledge base required to derive new products and compete in new industries.

We must also understand that this falloff in R&D will have serious economic repercussions into the future. Our investments in science and technology have an impact which stretches out over a twenty to thirty year horizon. Recognition of this fact is particularly crucial because of the projected dramatic rises in entitlement spending when the baby boom generation retires. To pay for Social Security, for Medicare, for all the hopes and dreams of our country, we will need a healthy economic harvest in years to come. Increasing our commitment to R&D today is the surest way to provide for the robust economy that is essential to our future social commitments. As Judy Carter, President and CEO of Softworks, points out, ''Without a growing economy, Americans' standard of living, and our ability to support the needs of our aging population will be in jeopardy. Faced with a static or decreasing workforce as U.S. demographics shift, U.S. lawmakers must focus on encouraging technology development to increase productivity, enabling a smaller workforce to support a growing population of retirees.''

We are doing well now economically because of our past R&D investments, but the declining R&D accounts bode poorly for our future. The Council on Competitiveness put it succinctly when it concluded, ''the United States may be living off historical assets that are not being renewed.'' It is time now to renew those investments. With its small but steady increases in the nation's R&D accounts and its commitment to thoughtful planning and review of our R&D portfolio, The Federal Research Investment Act, S. 296, begins the replenishment of our consummate national treasure—our knowledge base.

Mr. FRIST. Mr. President, I would like to take a few minutes to talk about an important, yet often ignored aspect of the federal budget—our investment in research and development (R&D). While I strongly believe that Congress must strive to stay within the budget caps, I also firmly believe that funding for R&D should be allowed to grow in fiscal year 2000 and beyond. Many economists argue that such an investment, through its impact on economic growth, will not drain our resources, but will actually improve our country's fiscal standing.

The Federal Research Investment Act, which I authored with Senators ROCKEFELLER, DOMENICI, and LIEBERMAN, passed the Senate last Monday for the second year in a row. the bill would double the amount of federally-funded civilian research and development (R&D) over eleven year period. This critical federal investment, performed throughout our national laboratories, universities, and private industry, is currently fueling 50% of our national economy through improvements in capital and labor productivity.

Throughout my career in the Senate, I have spent a considerable amount of time advocating for greater funding levels for civilian R&D. Together with many of my colleagues from both sides of the aisle, I have been trying to educate others on the value of the federal government's role in funding merit-based and peer-reviewed programs. One only has to look at the Internet, the foundation of the new digital economy, to find an example of prudent federal investment in R&D.

Current economic expansion and growth, however, cannot be maintained if we do not provide the necessary funds and incentives to perform critical R&D throughout the scientific disciplines. Federal expenditures of both civilian and defense R&D as a percentage of GDP have dropped from 2.2 percent in 1965 to only 0.8 percent in 1999—nearly one third of its value.

We have both a long-term problem: addressing the ever-increasing level of mandatory spending; and a near-term challenge: apportioning the ever-dwindling amount of discretionary funding. The confluence of increased dependency on technology and decreased fiscal flexibility has created a problem too obvious to ignore: not all deserving programs can be funded; not all authorized programs can be fully implemented. We must set priorities.

The Federal Research Investment Act applies a set of guiding principles, established by the Senate Science and Technology Caucus, to consistently ask the appropriate questions about each competing technology program; to focus on that programs' effectiveness and appropriateness for federal funding; and to help us make the hard choices about which programs deserve to be funded and which do not.

The Government plays a critical role in driving the innovation process in the United States. The majority of the federal government's basic R&D is directed toward critical missions to serve the public interest in areas including health, environmental pollution control, space exploration, and national defense. Federal funds support nearly 60 percent of the Nation's basic research, with a similar share performed in colleges and universities.

The Senate passage of the Federal Research Investment Act reflects a consensus that although basic research is the foundation for many innovations, the rate of return to society generated by investments in R&D is significantly larger than the benefits that can be captured by the performing institution.

This legislation sends a strong message to the academic and scientific community—Congress understands the value of pre-competitive, basis research and its impact on the national economy and the standard of living.

I hope that the House will be as courageous as the Senate and embrace this long-term funding strategy.

## HUMANITARIAN ASSISTANCE IN KOSOVO

Mr. HATCH. Mr. President, I note today that the international community had a successful first conference on reconstructing Kosovo and southeastern Europe. Nearly 40 leaders met in Sarajevo last weekend. The presence of most of these heads of state, including President Clinton's commendable appearance, demonstrates that the international community will not shirk from the responsibility of rebuilding Kosovo from the inhumane devastation visited upon it by the ultranationalist brutes still in power in Belgrade.

The people of Kosovo have suffered nearly unspeakable brutality, and it is entirely appropriate that the international community—which invested a great deal in forcing the Serbian military, paramilitary, and other gangsters out of Kosovo—now recognizes that long-term stability will not be created until immediate humanitarian needs, as well as medium-term goals of building a functioning economy, establishing institutions to devise and protect the rule of law, and ejecting the ultranationalists in Belgrade, are met.

It is also appropriate, Mr. President, that the European powers shoulder the majority of this cost, as the U.S. shouldered the majority of Operation Allied Force.

When we look at the humanitarian response to the crisis in Kosovo, we must note with appreciation the participation of nongovernmental organizations around the world who rushed to aid the Kosovar victims.

The American Red Cross, for example, has been involved in the Balkans since 1993—more proof that Milosovic has been wreaking havoc in the region for years.

Doctors Without Borders has been addressing a myriad of public health problems and responding to injuries.

These are just two organizations who have responded to the overwhelming needs of these people.

Prominent among these groups were the aid organizations of most of the world's religions.

Again, to name only a few, Catholic Relief Services just last week shipped more than 1400 metric tons of food. It has contributed other supplies and volunteers as well. The Catholic Relief Services have also taken on the project of rebuilding the schools.

Church World Services, the relief arm of a consortium of protestant denominations, has shipped tents, food, bedding, and other supplies.

The American Jewish Joint Distribution Committee, affiliated with the United Jewish Appeal, in addition to food and shelter supplies, has activitied its medical registry of volunteer doctors and nurses to operate clinics in the refugee areas of Albania and Macedonia.

And I would like to highlight the significant efforts by my own church, the Church of Jesus Christ of Latter-day Saints.

In my address to the assembled members of our church last April, President Gordon B. Hinckley said, ''At this moment, our hearts reach out to the suffering people of Kosovo.'' He set in motion our church's efforts to help relieve that suffering.

The Church's initial response to the crisis was timely. On Tuesday, April 6, specific plans were approved to ship family food boxes on a chartered air cargo plane. That night, over 300 Church members in Salt Lake City packed 3,000 boxes with food to feed a family of four for one to two weeks. On Wednesday, the food boxes were loaded on the cargo plane arriving in Macedonia on Friday. Refugee families began receiving the food boxes on Saturday, April 10. A second chartered air cargo plane was sent to Macedonia two weeks later with 26,000 family hygiene kits, 14,000 pounds of soap and 600 additional food boxes.

Other shipments containing blankets, food, and clothing have been distributed to refugees in Macedonia. Also, blankets, food,and clothing have been consigned to the American Red Cross. More hygiene kits have been assembled by Latter-day Saints in Germany, England, California, and Utah for shipment to refugees in June. Student and teacher educational supply kits have been provided to refugee camps in Macedonia. Fresh fruits, vegetables and bread are being purchased locally by the Church in Macedonia and Albania and distributed to refugee camps and host families.

The Church has sent volunteer couples to Macedonia and Albania to coordinate distribution of humanitarian assistance. A third volunteer couple with experience in the helping professions will go to Albania for 3–6 months to assist refugee and host families with social-emotional needs.

To date, the Church of Jesus Christ of Latter-day Saints has provided the following humanitarian aid to Kosovar refugees:

Food—133,000 pounds shipped, plus cash donations of $400,000 for local purchases;

Clothing and shoes—2 million pounds, soap—166,000 pounds, school kits and educational supplies—4,000 pounds;

Family hygiene kits—52,000, blankets—28,000; and

Cash contributions to the German Red Cross and the Mother Teresa Soceity—$110,000

Once all currently planned shipments are completed, the value of assistance rendered by The Church of Jesus Christ of Latter-day Saints will total approximately $5.2 million. The Church stands ready to evaluate and respond to future needs as circumstances may require and resources allow.

The Mormon Church today has as many adherents overseas as there are in this country. It is a global church. Its presence abroad contributes to an awareness of the need for public health, literacy, and development in other nations. But, more than that, it contributes to a greater understanding among nations and cultures.

The people of my state—not only LDS members—have always demonstrated a willingness to pitch in where there is need. Their contributions are obvious at home. But, we do not mention enough that their charitable spirit extends regularly to less fortunate people around the world.

While Utahans are fiscally conservative people and are not tolerant of the

financial waste perpetrated in Washington, they are also generous people. I am pleased to highlight their support for the Kosovar relief effort.

It is a tribute to America's generous spirit and sense of goodness that all of these organizations have mobilized to assist people suffering half a world away. There is no doubt that, despite the overwhelming challenge, these organization will collectively make the difference in the lives of these displaced Kosovar refugees and will provide hop for their future.

## THE AGRICULTURE APPROPRIATIONS BILL

Mr. FEINGOLD. Senator KOHL, as Senator COCHRAN read through the amendments included in the Managers package of the FY2000 Agriculture Appropriations bill late last night, I noticed that an amendment I had filed was not included. It had been my understanding that my amendment would be accepted during the wrap-up on the Agriculture Appropriations bill.

Mr. KOHL. I am aware of the Senator's amendment. Will the Senator please describe his amendment?

Mr. FEINGOLD. My amendment was a non-controversial sense-of-the-Senate resolution that the U.S. Customs Service should, to the maximum extent practicable, conduct investigations into, and take such other actions as are necessary to prevent, the importation of ginseng products into the United States from foreign countries, including Canada and Asian countries, unless the importation is reported to the Service, as required under Federal law. It merely asks that current law be complied with.

Mr. KOHL. Your amendment, expressing the sense-of-the-Senate regarding ginseng, was inadvertently left off the list for the Manager's amendment. However, it should be noted, that the amendment was not excluded based on its substance, but only because of a regrettable omission.

Mr. FEINGOLD. I thank the Senator and ask his assistance in including my ginseng amendment in the final conference report on the FY2000 Agriculture Appropriations bill.

Mr. KOHL. I would like to assure Senator FEINGOLD that I will work toward inclusion of this provision in the conference report. The Senator is correct that there was no objection raised to his amendment and I will make that point clear to my fellow conferees.

Mr. ROBERTS. I would like to engage the Senators from Wisconsin in this colloquy. Yesterday, when the Senate considered the Agriculture Appropriations Bill, I had offered three amendments regarding the Conservation Reserve Program. It is my understanding that at least one of these amendments had been cleared for approval until just prior to final passage of the bill, and that the Ranking Member and Chairman had been giving consideration to the remaining two amendments. However, the Department of Agriculture had expressed concerns and objections were raised.

Mr. KOHL. That is correct. Will the Senator from Kansas describe his amendments?

Mr. ROBERTS. The first amendment regarding CRP cross compliance is to address a problem we have had in Kansas. In many areas of the state, we have old homesteads that have long been abandoned. As time has passed these old homes have become dilapidated, rundown, and liability risks. Many producers want to remove these old homesteads and incorporate the land into their CRP land, conservation practices, or cropping rotations. But they are unable to do so due to CRP cross compliance rules. Under these rules, producers lose eligibility for CRP payments if they break Highly Erodible land (HEL) into production. Much of the land is considered HEL. Thus most of these homesteads sit on HEL land, and if they are removed, producers have violated the rules and lose payments. This does not seem to make sense and USDA agrees. USDA informed me that they planned to recommend to the Congress the elimination of this program in the next Farm Bill.

The other two amendments involve notices regarding CRP Notices 327 and 338 issued by the Farm Service agency last fall and this spring.

CRP Notice-327 issued by the Farm Service Agency prohibits the use of CRP land for hunting preserves. The notice does not prohibit land owners from leasing hunting rights or charging access fees to hunters. However, it does prohibit hunting preserves. This notice overturns a practice that has been allowed in many areas since the inception of the CRP program. In fact, these hunting preserves operate from the Kansas and Oklahoma areas to the Dakotas. These preserves are strongly regulated in Kansas and they have resulted in an important economic development activity for many rural areas. In Kansas, we have 112 tracts of land designated for use as hunting preserves. 36 of these tracts are in counties designated by USDA as eligible to apply for Round II Rural Empowerment zones under the criteria established by USDA. Basically, to qualify under this criteria, a county must have lost 15 percent or more of its population between 1980 and 1994. These population losses represent a significant erosion of the economic base of these rural areas. Disallowing these hunting preserves would represent a loss of tourism dollars and an economic hit that many of these counties simply cannot afford to take.

CRP Notice 338 prohibits the planting of grass strips on terrace tops for enrollment in the continuous CRP. The notice prohibits the enrollment of grass strips located on the tops of terraces—where erosion is most likely to take place—but allows the enrollment of strips planted between terraces—where crops can actually be grown. Strips planted on terraces provide important environmental functions by reducing both wind and water erosion. Grass strips help to prevent the breakage of terraces that sometimes occurs during torrential rains and they provide important habitat for wildlife. Fifteen groups in Kansas ranging from the State Secretary of Agriculture to the Kansas Audubon Society have asked Secretary Glickman to reverse this ruling. USDA's actions seem directly aimed at a recent brochure prepared by these 15 Kansas organizations that explains how landowners can use these grass strips to improve environmental and wildlife benefits. This amendment tries to return some aspect of local control to these decisions.

I thank the ranking member for taking another look at these amendments, and I would ask the Ranking Member's assurance that he will work with his Chairman and House counterparts to address my amendments on the Conservation Reserve Program in conference as well.

Mr. KOHL. I would like to assure the Senator from Kansas that I will work with Senator COCHRAN, Chairman of the Subcommittee, to make all members of the conference committee aware of the objectives of these three amendments. The Senator also has my assurance that I hope we can overcome any remaining objections to his amendment relating to CRP cross compliance. Further, I would like the Senator to know that I will continue discussions with all parties regarding his other two amendments to see if it will be possible to give them favorable consideration during conference committee action.

Mr. ROBERTS. I thank the Ranking Member for his assistance and all his work on the bill.

Mr. FEINGOLD. I would like to echo that sentiment and also thank Senator KOHL for his assistance and all his work on this very important bill.

## CBO COST ESTIMATE

Mr. MURKOWSKI. Mr. President, on August 3, 1999, I filed Report 134 to accompany S. 1330, a bill to give the city of Mesquite, NV, the right to purchase at fair market value certain parcels of public land in the city, that had been ordered favorably reported on July 28, 1999. At the time the report was filed, the estimates by Congressional Budget Office were not available. The estimate is now available and concludes that enactment of S. 1330 ''would increase direct spending by about $500,000 over the 2000–2004 period.'' I ask unanimous consent that a copy of the CBO estimate be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, August 4, 1999.*

Hon. FRANK H. MURKOWSKI,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1330, a bill to give the city of Mesquite, Nevada, the right to purchase at fair market value certain parcels of public land in the city.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria Heid Hall (for federal costs), who can be reached at 226–2860, and Marjorie Miller (for the state and local impact), who can be reached at 225–3220.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 1330—A bill to give the city of Mesquite, Nevada, the right to purchase at fair market value certain parcels of public land in the city*

S. 1330 provides for the conveyance of up to about 8,000 acres of federal land to the city of Mesquite, Nevada. Because S. 1330 would affect direct spending, pay-as-you-go procedures would apply to the bill. CBO estimates that enacting this bill would increase direct spending by about $500,000 over the 2000–2004 period. S. 1330 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would have no significant impact on the budgets of state, local, or tribal governments, other than the city of Mesquite, Nevada, which would benefit from its enactment.

S. 1330 would give the city of Mesquite, Nevada, the exclusive right to purchase specified parcels of federal land over the next 12 years. According to the Bureau of Land Management (BLM) and the city of Mesquite, these parcels comprise roughly 5,300 acres, depending on the outcome of final surveys. The city would pay fair market value for the acreage. Proceeds from the sale would be deposited in the special account established under the Southern Nevada Public Land Management Act of 1998 (SNPLM), out of which the Secretary of the Interior may expend funds for land acquisitions and other projects in the state of Nevada. Under current law, BLM has no plans to sell the property. Based on information from BLM and the city of Mesquite, we estimate that these sales would result in additional federal receipts of roughly $6 million over the 2000–2004 period and subsequent spending of the same amount. Payments by the city could be in one lump sum or over several years, which could affect the total receipts from the sales. The funds deposited in the SNPLM special account earn interest, which the Secretary can spend. Because a lag between the deposit and spending of sale proceeds is likely, we expect that enacting S. 1350 would result in a net increase in direct spending from the interest. Assuming all the acreage is sold to the city in 2001, we estimate a net increase in direct spending totaling about $500,000 over the 2000–2004 period. Estimated annual budgetary effects are shown in the following table.

| | By fiscal years in millions of dollars— | | | | | |
|---|---|---|---|---|---|---|
| | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
| CHANGES IN DIRECT SPENDING (including offsetting receipts) | | | | | | |
| Estimated Budget Authority | 0 | −4 | 2 | 2 | 1 | 0 |
| Estimated Outlays | 0 | −4 | 2 | 2 | 1 | 0 |

In addition, S. 1330 provides that within one year of enactment the Secretary of the Interior shall convey to the city of Mesquite up to 2,560 acres of federal land to be selected by the city from parcels described in the bill. The land would be used to develop a new commercial airport. The bill requires that the conveyance be in accordance with 49 U.S.C. 47125, which permits the Secretary of Transportation to request that a federal agency convey land or airspace to a public agency sponsoring a project such as a new airport. The statute specifies that such conveyances be made only on the condition that the federal government retain a reversionary interest if the land is not used for an airport. Since BLM has no plans to sell the property under current law, conveying the property at no cost to the city would have no net impact on receipts relative to current law.

S. 1330 contains no intergovernmental mandates as defined in UMRA. The city of Mesquite would benefit from enactment of this legislation, which would allow it to obtain needed parcels of land BLM would convey some of this land at no cost. The conveyances would be voluntary on the part of the city, as would any amounts spent by the city to purchase or develop the land. The bill would have no significant impact on the budgets of other local governments, or on state or tribal governments.

The CBO staff contacts are Victoria Heid Hall (for federal costs), who can be reached at 226–2860, and Marjorie Miller (for the state and local impact), who can be reached at 225–3220. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

## CHEMICAL DEMILITARIZATION FUNDING

Mr. BINGAMAN. Mr. President, I rise to highlight an issue of growing concern, namely funding for the U.S. chemical demilitarization program. My concern is that the Congress has been cutting the funding required to eliminate our stockpile of chemical weapons and agents, despite the fact that we have a treaty commitment under the Chemical Weapons Convention to destroy that stockpile by April 24, 2007.

Simply put, if we in Congress do not provide the funds needed to meet that treaty commitment in time, we will be forcing the United States to violate an arms control treaty that we in the Senate approved with our vote of advise and consent to ratification.

Mr. President, this is a trend we should not be continuing. In fact, we should be providing the funds needed to ensure that the United States can and does meet its treaty obligations for all treaties to which we are an adherent, including the Chemical Weapons Convention.

Given the Senate's unique constitutional role in providing advice and consent to the ratification of treaties, I would hope this proposition would be self-evident to all our colleagues. Nonetheless, Mr. President, the Conference Report on the Military Construction Appropriations Bill, H.R. 2465, contains significant reductions from the funding requested for military construction of chemical demilitarization facilities needed to meet our treaty obligations.

The program is cut by $93 million dollars in fiscal year 2000 funds, including a reduction of $15 million dollars for planning and design work. This appears to be a technical mistake, Mr. President, since the budget request did not contain any funds for planning and design in the military construction projects for chemical demilitarization. This is deeply disappointing since neither appropriations subcommittee had reduced the military construction funding in their respective bills. On the contrary, each subcommittee had provided full funding of the budget request for military construction for the chemical demilitarization program. The conference, however, chose to ignore that and cut funding.

If, as I suspect, those funding reductions would jeopardize our ability to meet our CWC treaty obligations, I hope the Defense Department will take some remedial action, such as a reprogramming or a supplemental request to ensure that the necessary funds are available to do the work needed to ensure that we remain compliant with the treaty. I also hope that the Defense Appropriations Conference will provide the necessary funding for this program since there are reductions made by both House and Senate subcommittees that I believe are not warranted, and are based on incomplete information.

Mr. President, there was a preliminary assessment conducted by the Defense Department's Comptroller office earlier this year that looked at the rate of obligations and disbursements for the chemical demilitarization program. Unfortunately, before that assessment was completed, an internal DoD memorandum was leaked with preliminary and incomplete information. That internal memo was the basis for much concern among various congressional committees. The problem is that some of the Committees acted on the basis of that incomplete information, and it is now clear that the preliminary information was incorrect. Consequently, Congress cut funds for the chemical demilitarization program based on faulty information.

Since that internal memo was leaked, Congress has been looking into the financial management of the chemical demilitarization program, and we have been provided with more complete and accurate information. This information makes it clear that we should not be cutting the program funding based on the earlier information.

The Armed Services Committee, on which I serve as the Ranking Member of the Emerging Threats subcommittee that has responsibility for this program, asked the General Accounting Office to conduct a preliminary review of the financial management of the program. Their conclusion was that the funds requested are all needed and that there are plans for spending them at a reasonable rate. In other words, Mr. President, the worries about slow obligation or expenditure rates are not justified, and there is a good explanation for why the funds are obligated and expended at their current pace. In my

view, this means that Congress should not be cutting the funds based on the incorrect information, but should provide the needed funding.

The General Accounting Office sent the results of their preliminary review to the Armed Services Committee in a letter dated July 29, 1999, and I will ask unanimous consent that the letter be included in the RECORD at the conclusion of my remarks. In addition, Mr. President, the Office of the Comptroller of the Department of Defense conducted a thorough review of the funding status of the chemical demilitarization program to review unobligated and unexpended balances. The results of that review have recently been submitted to Congress. That review indicates that about $88 million dollars could conceivably be deferred until next fiscal year, but that such a deferral would entail risks to our ability to meet the CWC deadline, and ''should only be made after serious consideration.''

In other words, Mr. President, the Defense Department Comptroller's office did not find the kinds of problems that had been suggested by the earlier preliminary internal review, and did not find excess funds suggested by that partial review. The review noted that ''without exception, the budgeted funds are needed to satisfy valid chemical demilitarization requirements. Should any funds be removed from FY 2000, the funds will need to be added back in the future budget.''

The Deputy Secretary of Defense, John Hamre, sent a letter to the congressional defense committees dated August 3, 1999, in which he explains the review and includes the executive summary of the Comptroller report. I will ask unanimous consent at the conclusion of my remarks that Secretary Hamre's letter and the enclosure be included in the RECORD.

Mr. President, the only conclusion I can draw from this is that Congress should not cut the funding for chemical demilitarization to the extent the Appropriations Committees did on the basis of the preliminary and partial information contained in the leaked internal memo. Instead, the Congress should work with the Defense Department to determine the correct level of funding needed to comply with the treaty and provide it.

Furthermore, since the completion of the Comptroller's review, the Defense Department has agreed to conduct an evaluation of three additional alternative technologies for chemical demilitarization, as sought in the Senate Military Construction Appropriations bill. This evaluation alone will cost some $40 million in FY 2000 funds, so that means that there is even less money that can be considered for deferral.

Mr. President, I addressed the Senate on the issue of the chemical demilitarization program when the Military Construction Appropriations bill, S. 1205, was before the Senate in June. At that time, I expressed my concern that the Senate bill had restrictions that could jeopardize our ability to meet the CWC deadline. I am glad to say that since then, the Defense Department has reached an understanding with the Appropriations Committee on a plan to evaluate the three additional alternative technologies without blocking or delaying construction activity. I am pleased to see this agreement and I commend all those who helped to achieve it, particularly the senior Senator from Kentucky, Senator MCCONNELL.

Mr. President, I know we take our treaty responsibilities very seriously here whenever a treaty is sent to the Senate for advice and consent to ratification. I know that was the case when the Chemical Weapons Convention was approved by more than three-quarters of the Senate. I hope we will take as seriously our obligation to provide the funds necessary to meet our treaty obligations. In this case, that means providing necessary funds for the chemical demilitarization program.

Mr. President, I now ask unanimous consent that the documents I referred to previously, be included in the RECORD at the conclusion of my remarks and I yield the floor.

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

DEPUTY SECRETARY OF DEFENSE,
*Washington, DC, August 3, 1999.*

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

DEAR MR. CHAIRMAN: You are aware, I am sure, of the extensive efforts we have been taking to destroy all of our chemical weapons by April 29, 2007, the date that ensures compliance with the Chemical Weapons Convention (CWC). Our Chemical Demilitarization program, however, has suffered from a lack of programmatic and technical stability.

One result of this instability has been that funds were not used at the rate anticipated at the time budgets were prepared, causing an unexpended balance to accrue. A preliminary review of the current status of this balance was made earlier this year. This assessment indicated the need for a more detailed review, and as a result, the Office of the Under Secretary of Defense (Comptroller) recently conducted a thorough analysis of the unexpended balances.

Enclosed is the Executive Summary of the resulting report, the full details of which have been provided to your staff. At the bottom line, the report indicates that about $88 million could be deferred from the FY 2000 budget to the FY 2001 budget. This action, however, would eliminate some of the program manager's ability to make necessary program adjustments without jeopardizing CWC compliance.

Since the completion of the report, we have agreed to conduct evaluations of the remaining alternative technologies for destruction of chemical weapons. This effort will require an additional $40 million in FY 2000, reducing to about $48 million the amount that could be deferred to FY 2001.

I am sure you share my concern about meeting the deadline for completing destruction of our chemical weapons stockpile, and ask that you carefully consider this report as you complete action on the FY 2000 budget.

A similar letter is being sent to the Chairman and Ranking Member of the other Defense Oversight Committees.

Sincerely,

JOHN J. HAMRE.

Enclosure.

EXECUTIVE SUMMARY

The Chemical Demilitarization (Chem Demil) program includes both an acquisition and an operational component with the goal of destroying a variety of chemical warfare agents residing in weapons (all-up-rounds), storage containers, and at production and storage facilities.

The program's schedule and funding has been driven by the requirement to eliminate the existing stockpile and associated components within the framework of the Chemical Weapons Convention (CWC) treaty. The treaty stipulates that all stockpiled agents must be destroyed by April 29, 2007.

The Chem Demil program has suffered from a lack of programmatic and technical stability, in part due to continuing concern and skepticism about the safety of the incineration process used by the Army to destroy the chemical agents.

As a result, the program office has regularly requested schedule and funding realignments.

Two of the nine planned destruction facilities are operational. Fourteen percent of the stockpiled chemical agents have been destroyed as of June 23, 1999. At this time, no firm plan or decision regarding nonstockpiled buried chemical agents has been made. Furthermore, the final disposition of the destruction facilities has yet to be approved by the Environmental Protection Agency.

There is considerable schedule and cost risk with the Assembled Chemical Weapons Assessment Program at both the Pueblo, Colorado and Blue Grass, Kentucky facilities. The technology to be used to dispose of the chemical agents has not been determined. Three technical proposals for alternative disposal methods have been demonstrated to the program office. Evaluation of the technologies by the government is currently ongoing.

Information provided by the Department of the Army and the Defense Finance and Accounting Service (DFAS) indicated that as of February 1999, approximately $1 billion of current and prior year Operation and Maintenance (O&M), Procurement, and Research Development, Testing & Evaluation (RDT&E) funds were unexpended. A preliminary review of the cause of the large unexpended balances was conducted in February 1999, which suggested a need for a more detailed review.

The current review is based on more complete program execution data (through May 30th) and provides a more accurate assessment of the reasons for the large unexpended balances. Out of the $3.2 billion appropriated between FY 1993 and FY 1999, $845.6 million (26 percent) remain unexpended. However, a detailed evaluation of the program execution history indicates that the low expenditure rates for the most part have been beyond the influence and control of the program office.

Neither review uncovered an instance involving inadequate program management controls, or gross violation of departmental financial regulations.

In this review, the cause of the under execution of the prior and current year program has been categorized into seven causes:

[Dollars in millions]

| | | Percentage of amount unexpended |
|---|---|---|
| Forward Financing ..... | $5.8 | 1 |

[Dollars in millions]

| | | Percentage of amount unexpended |
|---|---|---|
| Accounting Recording Lag | 120 | ..... |
| Administrative/In Progress | 224.7 | 44 |
| FEMA/State Processing | 26.8 | ..... |
| Awaiting Permit Issuance | 331.7 | ..... |
| Technical Restructure Delay | 41.1 | 55 |
| Contracting Delays | 95.5 | ..... |

The majority of the unexpended balance was budgeted to meet schedules that seemed reasonable when the budget was built. Fully 44 percent of the balance is associated with work that either has occurred for which the payment has not been recorded or work that is yet to occur but is on its planned schedule. None of these funds should be considered for deferral.

Only 1 percent is associated with classical forward financing and should be considered for deferral.

The balance of unexpended funds reflect contracting regulatory or technical delays that were largely beyond the control of the program manager. The paper carefully reviews each of these by site. It accepts the contractor's estimate of the cost of work to be performed during FY 2000, because the contractor is in the best position to judge what can be accomplished in FY 2000 and he must be encouraged to accomplish as much as possible if the Department is to achieve the treaty compliance date. The paper then evaluates remaining unexpended balances using a standard established in prior execution reviews.

As one reviews this program, the overriding concern is that the Department do everything in its power to achieve the legislated target date of April 29, 2007, for completion of chemical agent destruction. While this analysis indicates that $87.9 million may be deferrable into FY 2001, such a deferral should only be made after serious consideration because it will take away some of the program manager's ability to take additional steps to meet the treaty compliance date.

It should also be noted that without exception the budgeted funds are needed to satisfy valid chemical demilitarization requirements. Should any funds be removed from FY 2000, the funds will need to be added back in a future budget.

EVENTS SINCE COMPLETION OF THE REPORT

The Department has agreed to conduct evaluations of the three additional alternative technologies (Assembled Chemical Weapons Assessment Program). This will require an additional $40.0 million in FY 2000 and could be financed with funds considered for deferral in this report, which would reduce the total to be considered for deferral from $87.9 million to $47.9 million.

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GAO

*Washington, DC, July 29, 1999.*

Subject: Chemical Demilitarization: Funding Status of the Chemical Demilitarization Program.

Hon. JOHN W. WARNER,
*Chairman.*

Hon. CARL LEVIN,
*Ranking Minority Member,*
*Committee on Armed Services, U.S. Senate.*

Since the late 1980's, the Department of Defense (DOD) has been actively pursuing a program to destroy the U.S. stockpile of obsolete chemical agents and munitions. DOD has reported that this program, known as the Chemical Demilitarization Program, is estimated to cost $15 billion through 2007; approximately $6.2 billion has been appropriated for the program from fiscal year 1988 through fiscal year 1999. Because of the lethality of chemical weapons and environmental concerns associated with proposed disposal methods, the program has been controversial from the beginning and has experienced delays, cost increases, and management weaknesses.

The Chemical Demilitarization Program is funded through operation and maintenance (O&M), procurement, research and development (R&D), and military construction appropriations, with each being available for use for varying periods of time.[1] Concerns were recently raised within DOD that the program had built up significant levels of funding in excess of spending plans. This led to concerns that the program's fiscal year 2000 budget request might be overstating funding requirements. As requested, we reviewed the extent to which the program retains significant levels of prior years' appropriations in excess of spending plans. Accordingly, this report summarizes the results of a briefing we provided to your office on July 23, 1999, in which we reported our preliminary findings concerning (1) amounts of reported unallocated appropriations and unliquidated obligations from prior years' appropriations, (2) the extent to which more obligations have been liquidated than previously reported, (3) primary reasons for the reported unliquidated obligations, and (4) actions that have affected or will affect unliquidated obligations.[2] We except to analyze the program more extensively in a more detailed review. As part of that review, we will examine program costs, spending plans, schedules, and other management issues.

RESULTS IN BRIEF

For the selected Chemical Demilitarization Program appropriation accounts reviewed, we did not find sizable amounts of unallocated appropriations and unliquidated obligations from prior years that appear to be available for other uses. There were sizable unliquidated obligations reported from prior years. However, based on our review of $382.1 million (62.6 percent) of the reported $610.5 million in unliquidated obligations from the Chemical Demilitarization Program for fiscal years 1992–98, we found that $150.6 million (39.4 percent of the sample) had already been liquidated but not recorded in Defense Finance and Accounting Service (DFAS) budget execution reports. Further, the remaining $231.5 million in unliquidated obligations in our sample was scheduled to be liquidated by November 2000. Reported unliquidated obligations were caused by a number of factors such as delays in obtaining environmental permits and technical delays. At the same time, we identified a number of factors that have affected or will have the effect of reducing previously identified unliquidated obligations. The program has a reported $155.7 million in appropriations not yet allocated or obligated to specific program areas. However, nearly this entire amount ($145.2 million) involves current year appropriations that can obligated and liquidated over several years.

BACKGROUND

In 1985, the Congress passed Public Law 99–145 directing the Army to destroy the U.S. stockpile of obsolete chemical agents and munitions. On April 25, 1997, the United States ratified the Chemical Weapons Convention, an international treaty banning the development, production, stockpiling, and use of chemical weapons. The Convention commits member nations to dispose of (1) unitary chemical weapons stockpile, binary chemical weapons, recovered chemical weapons, and former chemical weapon production facilities by April 29, 2007, and (2) miscellaneous chemical warfare materiel by April 29, 2002.[3]

To comply with congressional direction and meet the mandate of the Chemical Weapons Convention, the Army established the Chemical Demilitarization Program and developed a plan to incinerate the agents and munitions on site in specially designed facilities. The Program Manager for Chemical Demilitarization in the Edgewood area of Aberdeen Proving Ground, Maryland, manages the daily operations of the program. The Army currently projects this program will cost $15 billion to implement through 2007; approximately $6.2 billion had been appropriated from 1988 through fiscal year 1999.[4]

Since its beginning, the Chemical Demilitarization Program has been beset by controversy over disposal methods; delays in obtaining needed federal, state, and local environmental permits and other approvals; and increasing costs. We have previously reported on these problems as well as problems with management weaknesses in the program and disagreements over the respective roles and responsibilities among federal, state, and local entities associated with the program. For example, in 1995, we reported that program officials lacked accurate financial information to identify how funds were spent and ensure that program goals were achieved.[5] A list of related GAO products is included at the end of this report.

Concerns over chemical demilitarization financial management issues surfaced again in February 1999, following a quick program review summarized in internal memorandums prepared by an official in the Office of the DOD Comptroller. The memorandums suggested that significant portions of prior years' O&M, procurement, and R&D appropriations obligated by specific Military Inter-departmental Purchase Requests (MIPR)[6] remained unliquidated, and could be deobligated and reprogrammed for other uses.

FUNDING BALANCES FOR THE CHEMICAL DEMILITARIZATION PROGRAM

The Chemical Demilitarization Program budget reports showed $155.7 million in current and prior years' appropriations not yet allocated ($107.1 million) or obligated ($48.6 million) to specific program areas. Nearly this entire amount ($145.2 million) is in current year appropriations. Also, the program currently has approximately $1 billion in unliquidated obligations, of which about 61 percent or $610.5 million are associated with prior years' appropriations for fiscal years 1992–98.

To identify the amounts of unallocated appropriations and unliquidated obligations from prior years, we collected official DFAS budget execution data for the Chemical Demilitarization Program. DFAS is responsible for providing the program office and other DOD organizations' financial and accounting services and information. Table 1 lists the reported budget authority and the unallocated unobligated, and obligated appropriations, along with unliquidated balances for selected appropriations for the Chemical Demilitarization Programs as of May 31, 1999. Budget authority allows agencies to enter into financial obligations that will result in immediate or future outlays of funds.

TABLE 1.—REPORTED BUDGET AUTHORITY AND UNALLOCATED, UNOBLIGATED, OBLIGATED, AND UNLIQUIDATED BALANCES FOR SELECTED APPROPRIATIONS FOR THE CHEMICAL DEMILITARIZATION PROGRAM (AS OF MAY 31, 1999)

[Dollars in millions]

| Fiscal year and funding category | Budget authority | Unallocated | Unobligated | Obligated | Unliquidated obligations |
|---|---|---|---|---|---|
| 1992–98 | $3,170.2 | $10.3 | $0.2 | $3159.5 | $610.5 |
| Operation and Maintenance | 1,821.8 | 8.9 | 0 | 1,812.5 | 135.8 |
| Procurement | 1,119.6 | 1.3 | 0.2 | 1,118.3 | 444.7 |
| Research and Development | 228.8 | 0.1 | 0 | 228.7 | 30.0 |
| 1999 | $666.8 | $96.8 | $48.4 | $521.6 | $393.0 |
| Operation and Maintenance | 428.3 | 17.2 | 23.5 | 387.6 | 263.1 |
| Procurement | 100.3 | 57.5 | 2.8 | 40.0 | 39.9 |
| Research and Development | 138.2 | 22.1 | 22.1 | 94.0 | 90.0 |
| Total | $3,837.0 | $107.1 | $48.6 | $3,681.1 | $1,003.5 |

Note 1.—The Chemical Demilitarization Program had a reported $3.2 billion in budget authority for fiscal years 1992–98 and $666.8 million in budget authority in fiscal year 1999. The budget authority for fiscal years 1992 and 1993 O&M funds and fiscal year 1992 R&D funds are not included in the table because these funds have been canceled. In addition, the table does not include military construction funds because these funds were not included in this review.

Note 2.—Unless otherwise specifically provided by law, a fixed appropriation account is generally available for adjusting and liquidating obligations properly chargeable to the account for 5 years following its period of availability for obligation. At the end of this 5-year period, the account is closed, and all balances are permanently canceled. O&M appropriations are available for obligation for 1 year, R&D appropriations are available for obligation for 2 years, and procurement appropriations are available for obligation for 3 years.

Note 3.—Numbers not intended to total horizontally.

Note 4.—The program office refers to unallocated funds as unissued funds.

Source: DFAS data provided by the program office.

As shown in table 1, the program office had a reported $10.3 million unallocated balance for fiscal years 1992–98. This balance consisted of funds that were never allocated to a specific project or were returned to this category after allocation. Returned funds include those amounts that were returned to the program office from projects that were terminated or completed for less than the obligated amount. Most of the unallocated funds are no longer available for obligation because their periods of availability for obligation have lapsed. In addition, the program office's unobligated balance for fiscal years 1992–98 was reported to be approximately $200,000. At the same time, the program reported $610.5 million in unliquidated obligations from fiscal years 1992–98.

In addition, as shown in table 1, the program office had a reported $96.8 million in unallocated and $48.4 million unobligated appropriations, and $393 million in unliquidated obligations in fiscal year 1999 funds. However, it is important to note that the R&D and procurement, but not O&M funds, will still be available for obligation for the remainder of this year and 1 or 2 more future years; and the obligations of all three appropriations may be liquidated for several more years beyond that.

MORE FISCAL YEARS 1992–98 OBLIGATIONS HAVE BEEN LIQUIDATED THAN REPORTED

For our preliminary review, we focused our analysis on the status of the unliquidated obligations for fiscal years 1992–98. Based on our review of 28 MIPRs with $382.1 million in unliquidated obligations (or 62.6 percent of the total reported unliquidated obligations), we found that $150.6 million (39.4 percent) had been liquidated.[7] The remaining $231.5 million (60.6 percent) of the reported $382.1 million in unliquidated obligations is scheduled to be liquidated between August 1999 and February 2000 (see table 2).

TABLE 2.—ADJUSTED UNLIQUIDATED OBLIGATIONS FOR 28 MIPRS (AS OF JULY 7 THROUGH JULY 14, 1999)

[Dollars in millions]

| Category of funds | Number of MIPRs GAO reviewed | Reported unliquidated obligations [1] | Liquidated funds | | Adjusted unliquidated obligations | |
|---|---|---|---|---|---|---|
| | | | Amount | Percent | Amount | Percent |
| Operation and Maintenance | 8 | $79.3 | $66.9 | 84.4 | $12.4 | 15.6 |
| Procurement | 16 | 283.2 | 74.1 | 26.2 | 209.1 | 73.8 |
| Research and Development | 4 | 19.6 | 9.6 | 49.0 | 10.0 | 51.0 |
| Total | 28 | $382.1 | $150.6 | 39.4 | $231.5 | 60.6 |

[1] Reported as of May 31, 1999, by DFAS.

Note 1.—The MIPRs were for fiscal years 1992-98 funds.

Note 2.—Unless otherwise specifically provided by law, a fixed appropriation account is generally available for adjusting and liquidating obligations properly chargeable to the account for 5 years following its period of availability for obligation. At the end of this 5-year period, the account is closed and all balances are permanently canceled. O&M appropriations are available for obligation for 1 year, R&D appropriations are available for obligation for 2 years, and procurement appropriations are available for obligation for 3 years.

Source: DFAS data provided by the program office.

As shown in table 2, we reviewed eight MIPRs that included a reported $79.3 million in unliquidated O&M obligations. Of this amount, $55.2 million was allocated to the FEMA for the Chemical Stockpile Emergency Preparedness Program (CSEPP). According to FEMA officials and supporting documentation, the total amount has been liquidated but was not timely reported to the program office for input to the finance service records. In addition, another $11.7 million of the reported $79.3 million in unliquidated O&M obligations has been liquidated by the program office and its contractors. The remaining $12.4 million of the $79.3 million amount is scheduled to be liquidated between now and February 2000.

In addition,, as shown in table 2, we reviewed 16 MIPRs that included a reported $283.2 million in unliquidated procurement obligations. Of this amount, $54.2 million was allocated to FEMA for CSEPP projects. According to FEMA officials and supporting documentation, $40.5 million of the $54.2 million in CSEPP obligations has been liquidated but not reported to the program office in time for input to the finance service records. The remaining $13.7 million is still unliquidated but allocated to Alabama for its CSEPP projects. In addition, another $33.6 million of the reported $283.2 million in unliquidated procurement obligations has been liquidated by the program office and its contractors by May 31, 1999, and the remaining $209.1 million is scheduled to be liquidated between now and November 2000.

We also reviewed four MIPRs that included a reported $19.6 million in unliquidated R&D obligations. Of this amount, the program office and its contractors have liquidated $9.6 million. The remaining $10 million is scheduled to be liquidated between now and September 2000. Our preliminary review of the budget execution reports and MIPRs shows no indication that the program office obligated the same funds to separate projects and contracts in order to reduce its unobligated balances. We plan to complete a more extensive analysis of the potential for such double obligations as part of our future review discussed previously.

PRIMARY REASONS FOR THE UNLIQUIDATED OBLIGATIONS

We identified a variety of reasons for the reported unliquidated obligation balances. Most included procedural delays associated with reporting financial transactions to the finance service. More specifically, they included:

Accounting and procedural delays: According to DOD and Army officials, it can take from 90 to 120 days to process and report liquidation data before liquidations are included in the finance service budget execution data and reports. For example, the program office's projects are large enough to include a primary contractor and several subcontractors. Primary contractors may take several weeks to validate, process, and report liquidation actions by their subcontractors to the program office, which also has its own processes and procedures before reporting to the finance service. Furthermore, the finance service requires time to input and report its liquidation data to responsible DOD and Army officials.

Army and FEMA accounting and procedural delays for CSEPP funds: On the basis of our MIPR sample, CSEPP liquidations were included in the finance service data because FEMA had not reported liquidation actions in a timely manner to the program office.

Environmental permit delays: Program officials found that estimating the time required to obtain environmental permit approvals was much more difficult than expected. For example, permits to construct the Umatilla, Anniston, and Pine Bluff chemical demilitarization facilities took 2 to 3 years more than the program office anticipated. Although funds were obligated for these projects, the program office could not liquidate the obligations until after the respective state approved the construction permit and the demilitarization facilities were constructed.

Technical delays: According to program officials, lessons learned from ongoing demilitarization operations at Johnston Atoll in the Pacific Ocean and Tooele, Utah, resulted in technical and design changes for future facilities that required additional time and resources. While these changes were being incorporated, liquidation of obligated funds proved to be slower than program officials expected.

ACTIONS THAT HAVE AFFECTED OR WILL AFFECT UNLIQUIDATED OBLIGATIONS

Several factors have affected or will affect the program office's unliquidated obligations. First, in fiscal year 1999, the Congress reduced the administration's budget request for the Chemical Demilitarization Program by $75.1 million. Consequently, there were fewer funds to obligate during fiscal year 1999 than planned for the program. A factor that should reduce unliquidated obligations is the 1997 approval of environmental permits for the construction of the Umatilla, Oregon, and Anniston, Alabama, chemical demilitarization facilities. The construction of these facilities should allow the program office to liquidate unliquidated procurement obligations for these locations. In addition, the environmental permits were approved in 1999 for the construction of Pine Bluff, Arkansas, and Aberdeen, Maryland, chemical demilitarization facilities, which should allow the program office to liquidate unliquidated procurement obligations for these locations. At the same time, program officials expect additional procurement costs at the Umatilla and Anniston disposal sites due to design and technical changes to previously purchased equipment.

AGENCY COMMENTS AND OUR EVALUATION

We provided a draft copy of this report to DOD and the Army for comment. Responsible officials stated that they did not have sufficient time to formally review and comment on the report. However, we were provided with various technical comments which were used in finalizing the report.

SCOPE AND METHODOLOGY

To assess the unobligated appropriations and unliquidated obligations for the Chemical Demilitarization Program, we interviewed and obtained data from DOD, Army, and FEMA officials, including officials from the Program Manager for Chemical Demilitarization Program in the Edgewood area of Aberdeen Proving Ground, Maryland; Office of the United Secretary of Defense (Comptroller); Deputy Assistant Secretary of the Army, Chemical Demilitarization; Assistant Secretary of the Army for Financial Management; Army Audit Agency; and Office of Management and Budget. We reviewed DFAS reported budget execution data for selected appropriations for chemical demilitarization program budget authority, unallocated, unobligated, and unliquidated balances for fiscal years 1992–99. We did not attempt to reconcile budget execution data with DOD's financial statements.[8] In addition, we interviewed DOD and Army officials to discuss the (1) requirements for these funds, (2) primary causes for the unliquidated obligations, and (3) actions that have affected or will affect unliquidated obligations.

Because most unallocated appropriations are no longer available for obligations, unobligated balances are relatively small compared to the budget authority and fiscal year 1999 funds are still available for obligation and liquidation for several years, we focused our analysis on the status of the unliquidated obligations for fiscal years 1992–98. We judgmentally selected and reviewed 28 of the program's 63 MIPRs with reported unliquidated obligations of more than $1 million to (1) verify the reported unliquidated obligation, and (2) identify specific requirements and time frames for liquidating the obligations. To verify the reported unliquidated obligations, we interviewed responsible program officials and reviewed supporting documentation from the Army and its contractors and compared these data with the unliquidated obligations reported in DFAS budget execution reports. On the basis of this comparison, we determined the extent to which more obligations have been liquidated than previously reported by the finance service. These liquidated obligations were deducted from the reported unliquidated obligations to determine the revised unliquidated amount. In addition, we interviewed responsible program officials and reviewed supporting documentation from the Army and its contractors to determine the schedules for liquidating the remaining unliquidated obligations.

We conducted our review from July 6 to July 26, 1999, in accordance with generally accepted government auditing standards. We are continuing our review of the Chemical Demilitarization Program. This report represents the preliminary results of our work.

We are sending copies of this report to Senator Pete V. Domenici, Senator Daniel K. Inouye, Senator Ted Stevens, Senator Robert Byrd, Senator Frank R. Lautenberg, Senator Joseph I. Lieberman, and Senator Fred Thompson and to Representative John R. Kasich, Representative Jerry Lewis, Representative C.W. (Bill) Young, Representative David R. Obey, Representative John P. Murtha, Representative Ike Skelton, Representative Floyd D. Spence, and Representative John M. Spratt, Jr., in their capacities as Chair or Ranking Minority Member of cognizant Senate and House Committees and Subcommittees. We are also sending copies of this report to: the Honorable William S. Cohen, Secretary of Defense; the Honorable William J. Lynn, Under Secretary of Defense (Comptroller); the Honorable Louis Caldera, Secretary of the Army; and the Honorable Jacob Lew, Director, Office of Management and Budget.

If you have any questions regarding this letter, please contact Barry Holman or me on (202) 512–8412. Key contributors to this assignment are Don Snyder, Claudia Dickey, and Mark Little.

DAVID R. WARREN,
*Director,*
*Defense Management Issues.*

FOOTNOTES

[1] We did not include military construction appropriations in our review.

[2] Unallocated appropriations refer to funds not yet committed to specific projects—the program office refers to unallocated funds as unissued funds. Unobligated balances represents funds committed or allocated to specific programs but pending contract award. Obligations are the amounts of orders placed, contracts awarded, services received, and similar transactions during a given period that require payments. Unliquidated obligations consist of those obligations for which disbursements have not yet occurred.

[3] If a country is unable to maintain the Convention's disposal schedule, the Convention's Organization for the Prohibition of Chemical Weapons may grant a one-time extension of up to 5 years.

[4] This estimated cost excludes funding for the Assembled Chemical Weapons Assessment Program, whose goal is to study the feasibility of disposal efforts for assembled chemical weapons without use of incineration. Separation funding is devoted to this effort.

[5] See *Chemical Weapons Stockpile: Changes Needed in the Management of the Emergency Preparedness Program* (GAO/NSIAD–97–91, June 11, 1997) and *Chemical Weapons: Army's Emergency Preparedness Program Has Financial Management Weaknesses* (GAO/NSIAD–95–94, Mar. 15, 1995).

[6] An MIPR is a DOD financial form that is used by the program office to transfer funds to other government agencies, such as the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers, for work or services identified for the Chemical Demilitarization Program. As required by DOD regulations, the program office records these transfers as obligations.

[7] The $150.6 million represents 24.7 percent of the total reported $610.5 million in unliquidated obligations for fiscal years 1992–98, as identified in table 1.

[8] For information on DOD's overall financial status see *Financial Audit: 1998 Financial Report of the United States Government* (GAO/AIMD–99–130, Mar. 31, 1999).

## COMMENDING THE ''FIGHT FOR YOUR RIGHTS: TAKE A STAND AGAINST VIOLENCE'' PROGRAM

Mr. McCAIN. Mr. President, I would like to take a moment to draw my colleagues' attention to a program that, I think, deserves to be commended. It is called ''Fight for Your Rights: Take a Stand Against Violence.'' The purpose of the program is to give our nation's youth information and advice on how to cope with the epidemic of violence that is taking so many of their own.

The Departments of Justice, and Education are participants in the campaign, but what I would like to draw my colleagues' attention to is the role of MTV music television and the Recording Industry Association of America.

The most basic and profound responsibility that our culture—any culture—has, is raising its children. We are failing that responsibility, and the extent of our failure is being measured in the deaths, and injuries of our kids in the school yard and on the streets of our neighborhoods and communities.

Our children are killing each other, and they are killing themselves.

Primary responsibility lies with the family. As a country, we are not parenting our children. We are not adequately involving ourselves in our children's lives, the friends they hang out with, what they do with their time, the problems they are struggling with. This is our job, our paramount responsibility, and most unfortunately, we are failing. We must get our priorities straight, and that means putting our kids first. But, parents need help.

This is an extraordinarily complex problem. However, at its core, is a collapse of the value shaping institutions of our society. Our public schools are restricted from teaching basic morals and values. Stresses on families, the most basic value building institution in our society, the demands of two income households, and the breakdown of the traditional family structure are undermining our ability to raise decent and moral children. The marginalizing of the critical role of religion, of

churches and synagogues, in our modern society contributions to a youth culture devoid of moral responsibility and accountability. All of these factors conspire to disconnect our children from humanity, and are turning some of them into killers.

Our homes and our families—our children's minds, are being flooded by a tide of violence. This dehumanizing violence pervades our society: our movies depict graphic violence; our children are taught to kill and maim by interactive video games; the Internet, which holds such tremendous potential in so many ways, is tragically used by some to communicate unimaginable hatred, images and descriptions of violence, and ''how-to'' manuals on everything from bomb construction to drugs.

With the pressures of this modern society, the emphasis on technology, the demand for performance, the fast pace of events, our children seem to be increasingly isolated from family and peers.

If we are to turn this tide of youth violence, we must examine all of these factors together. We must develop a comprehensive understanding of how these factors interrelate to produce a child capable of the shocking violence unfolding in our streets and school yards.

I have repeatedly joined various of my colleagues in efforts to call the entertainment industry to task for creating and marketing violent products to children. Most recently, I joined in many of my distinguished colleagues, prominent Americans, and concerned citizens in an ''Appeal to Hollywood,'' asking the leaders of the entertainment industry to adopt a voluntary code of conduct exercising restraint from marking violence and smut to our nation's youth. I have also introduced legislation requiring the Surgeon General to complete a comprehensive study to determine the effect of media violence on children. I joined Senator Lieberman in calling for a special Youth Violence Study Commission that will study all of the various complex factors that conspire to generate such youth violence as we have recently witnessed. Earlier this year, I also introduced the Youth Violence Prevention Act, which targeted the various illegal ways by which our nation's children are gaining access to guns. As I have stated, this is a complex problem, and we must press the issue on all fronts.

For this reason, I wish to commend the efforts of MTV and the Recording Industry Association of America. The electronic media dominate much of our children's lives. They are the first generation of Americans to grow up entirely in a digital age. Much of what they see through the media is good. Some of it is both irresponsible and dangerous.

The ''Take a Stand Against Violence'' campaign represents the positive potential of the television and music industry. It is a positive campaign that engages the various factors that contribute to youth violence, and most important, it does so in a language that young people understand. As I believe the entertainment industry should be held responsible when they peddle violence and smut to America's youth, I equally believe that the industry should be given credit for the many positive things they do.

The epidemic of youth violence in our Nation is a complex challenge. It will only be solved if we all work together. Again, I urge all Americans to get involved in their kids' lives. Ask questions, listen to their fears and concerns, their hopes and their dreams.

Again, I think we should commend entertainment industry leaders when they take positive steps to curb the tide of youth violence. In particular, I want to commend MTV and the Recording Industry of America for the ''Take a Stand Against Violence'' campaign. It represents a very positive step, and should serve as an example for others in the entertainment field.

Mr. President, I ask that a summary of this program be inserted into the RECORD following my statement.

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

FIGHT FOR YOUR RIGHTS: TAKE A STAND AGAINST VIOLENCE

MTV's Emmy Award-winning 1999 pro-social campaign ''Fight for Your Rights: Take a Stand Against Violence'' gives young people a voice in the national debate on violence and provides them with tactics for reducing violence in their communities. Fight for Your Rights involves special programming, Public Service Announcements, grassroots events, and News special reports.

Both on air and off, MTV's campaign focuses on the three types of violence that most affect its audience: Violence in the Schools, Violence in the Streets (hate violence and gang violence), and Sexual Violence. Through high profile programming events, coverage on MTV News, thought-provoking on-air promos, a 20 college campus tour, and local events involving cable affiliates across the country, the campaign provides ideas beyond curfews and school uniforms. Focusing on solutions, such as peer mentoring, conflict resolution programs, artistic responses to violence and youth advocacy groups, Fight for Your Rights gives young people the tools they need to take a stand against violence.

''Fight for Your Rights: Take a Stand Against Violence'' programming includes:

True Life: Warning Signs, an investigation of the psychological factors that can cause a young person to turn violent, produced in conjunction with the American Psychological Association.

Point Blank, a one-hour national debate on the issue of gun control and the role guns play in the lives of young people.

Scared Straight! 1999, MTV's update of the Oscar and Emmy award-winning documentary of the same title.

Rising Hate Crimes Among Youth, an examination of the alarming increase in hate-related incidents.

Unfilered: Violence from the Eyes of Youth, puts cameras in the hands of 10–15 young people to document violence in their lives.

True Life: Matthew's Murder, takes viewers into the heart of young America's shock and confusion about the death of 21-year old college student Matthew Shepard.

Fight Back, a hard-hitting look at the thousands of young women and men who are the victims of sexual abuse each year.

Through partnerships with The US Departments of Justice and Education, as well as the National Endowment for the Arts. MTV developed a 24-page Action Guide/all-star CD that will be distributed throughout the campaign. The CD contains music and comments on the subject of violence from top recording artists such as Lauryn Hill, Dave Matthews, Alanis Morissette, and many others. The Guide outlines five actions aimed at engaging young people in solutions to violence, as well as providing alternative outlets to violence. One million copies of the CD/Guide package will be given away to MTV viewers via a special toll-free number promoted on MTV during PSA's, programming and on-air promotions devoted specifically to the topic of youth violence.

The Recording Industry Association of America (RIAA) graciously donated and manufactured the all-star CD which also contains CD–ROM content focusing on conflict resolution skills produced by the National Center for Conflict Resolution Education.

## CONGRESS MISSES THE BUS ON GUN CONTROL

Mr. LEVIN. Mr. President, in less than two weeks, the students of Columbine High School will resume classes and begin their 1999–2000 school year. Since the now infamous Columbine massacre on April 20th, the school has gone through a complete transformation. Sixteen high-definition security cameras have been installed in the school; bullet holes have been patched or covered; the alarm system, which rang for hours during the reign of terror, has been replaced; and new glass windows have been installed to replace broken ones shattered by bullets and home-made bombs. In addition, keyed entry doors have been replaced by high-security electronic doors, a makeshift library has been created out of classrooms, and the school district has hired two additional security guards for protection.

School officials will be making additional changes up until the very day students come back on August 16th, all in an effort to make the Columbine students feel safer when they return to school. Yet, Columbine students were not the only ones affected by last April's shooting. Students and teachers around the nation have lost the sense of safety they deserve to have at school. These students will hardly regain that safety by new landscaping or replaced alarm systems. These students and their families will continue to live in fear until the real issue at hand is addressed: the easy accessibility that young people have to guns.

When school resumes on August 16th at Columbine and around the nation, Congress will have done nothing to prevent young people from purchasing dangerous weapons. Students across the nation will walk into school to begin a new year, while Congress is in a month-long recess, having done nothing to change the same loopholes in the

same Federal firearms laws that put the weapons in the hands of minors.

Congress's failure to act is inexcusable. Moderate reforms designed to limit juvenile access to firearms are long overdue. Yet, proponents of even the most modest gun safety legislation have come up against nothing but stonewalling and procedural delays. Sadly, it seems as if action on the juvenile justice bill is only propelled forward by additional tragedies; the Senate bill, having been passed on the day of another school shooting at Heritage High School in Conyers, Georgia, and the final motion to appoint conferees occurring just one day after a mass shooting in Atlanta. I pray that it does not take yet another mass shooting to move this legislation out of Conference Committee and onto the President's desk.

## CONGRESSIONAL BUDGET ACT COMPLIANCE

Mr. DOMENICI. Mr. President, pursuant to section 313(c) of the Congressional Budget Act of 1974, I submit for the Record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313. The inclusion or exclusion of material on the following list does not constitute a determination of extraneousness by the Presiding Officer of the Senate.

To the best of my knowledge, the conference agreement for the Financial Freedom Act of 1999, H.R. 2488, contains no material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313 of the Congressional Budget Act of 1974.

## THE NEW MILLENNIUM CLASSROOMS ACT

Mr. ABRAHAM. Mr. President, I rise today to engage in a brief colloquy with the Majority Leader regarding the New Millennium Classrooms Act. Last week, the Abraham-Wyden New Millennium Classrooms Act amendment the the Taxpayer Refund Act of 1999 was cleared on both sides of the aisle and accepted by the full United States Senate. This bill provided tax incentives for businesses to donate both new and used computers to K–12 schools and senior centers. The Senate's approval of this amendment demonstrates our strong commitment to provide school children—especially those children who live in impoverished areas—access to up-to-date computer technology and the Internet. Unfortunately, despite the Senate's strong support for this measure, I understand that it was opposed by the House conferees to the Taxpayer Refund Act.

Mr. LOTT. The Senator from Michigan is correct. The New Millennium Classrooms Act was not included in the House-passed tax bill, and was later omitted from the final tax conference report at the request of House Ways and Means Chairman Bill Archer. I would say that to the Senator from Michigan that your New Millennim Classrooms Act remains a top legislative priority for our Senate Republican High Tech Task Force. Accordingly, I will continue to work with you to find a way to secure final Congressional approval of this important pro-technology, pro-education initiative.

Mr. ABRAHAM. I thank the Majority Leader for his support.

## FORMOSAN TERMITES

Ms. LANDRIEU. Mr. President, I would like to engage into a colloquy with the distinguished Chairman and the senior senator from Louisiana, Mr. BREAUX, about two very important ongoing agriculture research projects relating to Formosan termites, and phytoestrogen research ongoing in Louisiana, which the Appropriations Committee has supported in the past.

For the past two fiscal years, vital funding has been provided to the Southern Regional Research Center in New Orleans to continue ''Operation FullStop'', which has targeted research and test pilots to find ways to control the Formosan termite. This past, first introduced into the United States from east Asia in the 1940s has spread like a plague through the Southeast, and its range now extends from Texas to South Carolina. In Louisiana, damage is most severe in New Orleans where the total annual cost of termite damage and treatment is estimated at an astonishing $217,000,000. Many historic structures in the French Quarter have been devastated, and now as many as ⅓ of the beloved live oaks that shade historic thoroughfares such as St. Charles Avenue are at risk of being lost to termite damage. To help find appropriate controls for Formosan termites in Louisiana and other states where termites are just being found, it is critical for this research to continue.

Additionally, the Southern Regional Research Center in coordination with Tulane and Xavier Universities in New Orleans have merged their complementary expertise in a unique and powerful collaborative on comparative research of the impact of Phytoestrogens on human health. These natural chemicals in soybeans and other plant substances is only starting to receive attention as dietary substances capable of improving human health. In addition, to showing beneficial health effects for the prevention of breast cancer and other health disorders, this research has developed techniques in molecular biology which could lead to applications that control the development of harmful insects. Researchers are on the verge of harnessing this knowledge and applying it to the possible biological amelioration of Foremosan termite infestations. Thus, continuation of this research funded by a special Agriculture Research Service grant, is needed to build upon the ongoing program and hopefully find answers to how chemicals found in plant products could be used to replace other toxic pharmaceuticals and pesticides.

Mr. BREAUX. Thank you, Senator LANDRIEU. I agree that it is vital that these ongoing agriculture research projects be given much deserved and badly needed attention and consideration by the U.S. Congress. and I join Senator LANDRIEU in my concern about the urgency to control Formosan termite devastation to privately-owned and public property, to historic preservation, to commerce, and to economic development. Research being conducted at the Agriculture Research Service in New Orleans is vital to controlling the Formosan termite. Formosan termites are unique and are capable of inflicting more damage to more plant species than native termite species. In addition, they have unique biological traits which make them more difficult to control, such as being able to avoid traditional termite controlling toxins by building nests above ground. The fundamental research currently conducted in New Orleans will identify vulnerabilities in termite biology or colony development which can be exploited for the development of new detection methods and environmentally-sound control strategies. The structural foundation of New Orleans and other areas all along the coast will benefit from this research.

Also, the ongoing Phytoestrogen research being conducted by the Southern Regional Research Center in coordination with Tulane and Xavier Universities in New Orleans is an exemplary partnership. The Tulane/Xavier Center for Bioenvironmental Research has one of the leading laboratory efforts in the world for the study of estrogenic chemicals, including Phytoestrogens. USDA's Southern Research Center has 54 years of distinguished service to agriculture and science, making this a productive and sensible collaboration. The ramifications of this partnership will be broad-reaching, aiding not only the prevention and treatment of disease in humans, but also the development of safe biological alternatives to conventional pest control. I join Senator LANDRIEU in looking forward to the continuation of these projects.

Mr. COCHRAN. Mr. President, I appreciate very much the comments from my colleagues from Louisiana. Both of my colleagues can rest assured that I will keep these issues clearly in focus as we deliberate the fiscal year 2000 Agriculture Appropriations bill in conference with the other body. Additionally, I am aware of the many other important past and present research projects ongoing at the Southern Regional Research Center. This is an excellent agriculture research center, and funding for its work should be carefully considered by the conference committee.

INTRODUCTION OF THE U.S. HOLOCAUST ASSETS COMMISSION EXTENSION ACT OF 1999

Mr. SMITH of Oregon. Mr. President and Members of the Senate, next week our Nation will pass an important if unnoticed anniversary—the anniversary of one of the first official notifications we were given of the atrocities of the Holocaust.

On August 8, 1942, Dr. Gerhart Reigner, the World Jewish Congress representative in Geneva, sent a cable to both Rabbi Stephen Wise—the President of the World Jewish Congress—and a British Member of Parliament. In it, Dr. Reigner wrote about ''an alarming report'' that Hitler was planning that all Jews in countries occupied or controlled by Germany ''should after deportation and concentration * * * be exterminated at one blow to resolve once and for all the Jewish question in Europe.'' Our Government's reaction to this news was not our greatest moment during that terrible era.

First, the State Department refused to give the cable to Rabbi Wise. After Rabbi Wise got a copy of the cable from the British, he passed it along to the Undersecretary of State, who asked him not to make the contents public until it could be confirmed. Rabbi Wise didn't make it public, but he did tell President Roosevelt, members of the cabinet, and Supreme Court Justice Felix Frankfurter about the cable. None of them chose to act publicly on its contents.

Our government finally did acknowledge the report some months later, but the question remains: how many lives could have been saved had we responded to this clear warning of the Holocaust earlier and with more vigor? The questions of how the United States responded to the Holocaust and, specifically, what was the fate of the Holocaust victims' assets that came into the possession or control of the United States government, is the focus of the Presidential Advisory Commission on Holocaust Assets in the United States, of which I am a member.

This bipartisan Commission—chaired by Edgar M. Bronfinan—is composed of 21 individuals, including four Senators, four Members of the House, representatives of the Departments of the Army, Justice, State, and Treasury, the Chairman of the United States Holocaust Memorial Council, and eight private citizens.

The Commission is charged with conducting original research into what happened to the assets of Holocaust victims—including gold, other financial instruments and art and cultural objects—that passed into the possession or control of the Federal government, including the Federal Reserve. We are also to survey the research done by others about what happened to the assets of Holocaust victims that passed into non-Federal hands, including State governments, and report to the President, making recommendations for future actions, whether legislative or administrative.

The Commission was created last year by a unanimous Act of Congress, and has been hard at work since early this year. Perhaps the most important information that the Commission's preliminary research has uncovered is the fact that the question of the extent to which assets of Holocaust victims fell into Federal hands is much, much larger than we thought even a year ago, when we first established this Commission.

Last month, at the quarterly meeting of the Commissioners in Washington, we unveiled a ''map'' of Federal and related offices through which these assets may have flowed. To everyone's surprise, taking a sample year—1943—we found more than 75 separate entities that may have been involved.

The records of each of these offices must first be located and then scoured—page by page—at the National Archives and other record centers across the United States. In total, we must look at tens of million of pages to complete the historical record of this period.

Furthermore, to our nation's credit, we are currently declassifying millions of pages of World War II-era information that may shine light on our government's policies and procedures during that time. But, this salutary effort dramatically increases the work the Commission must do to fulfill the mandate we have given it.

In addition, as the Commission pursues its research, it is discovering new aspects of the story of Holocaust assets that hadn't previously been understood. The Commission's research may be unearthing an alarming trend to import into the United States through South America, art and other possessions looted from Holocaust victims. Pursuing these leads will require the review of additional thousands of documents.

The Commission is also finding aspects of previously known incidents that have not been carefully or credibly researched. The ultimate fate of the so-called ''Hungarian Gold Trains.''—for example—a set of trains containing the art, gold, and other valuables of Hungarian victims of the Nazis that was detained by the liberating US Army during their dash for Berlin has not been carefully investigated.

In another area of our research, investigators are seeking to piece together the puzzle of foreign-owned intellectual property—some of which may have been owned by victims of Nazi genocide—the rights to which were vested in the Federal government under wartime law.

For all of these reasons and more, I am introducing today with Senators BOXER, DODD and GRAMS the ''U.S. Holocaust Assets Commission Extension Act of 1999.'' This simple piece of legislation moves to December, 2000, the date of the final report of the Presidential Advisory Commission on Holocaust Assets in the United States, giving our investigators the time to do a professional and credible job on the tasks the congress has assigned to them.

This bill also authorizes additional appropriations for the Commission to complete its work. I strongly urge all of my colleagues to join me in support of this necessary and simple of legislation.

As we approach the end of the millennium, the United States is without a doubt the strongest nation on the face of the earth. Our strength, however, is not limited to our military and economic might. Our nation is strong because we have the resolve to look at ourselves and our history honestly and carefully—even if the truth we find shows us in a less-than flattering light.

The Presidential Advisory Commission on Holocaust Assets in the United States is seeking the truth about the belongings of Holocaust victims that came into the possession or control of the United States government. All of my colleagues should support this endeavor, and we must give the Commission the time and support it needs by supporting the U.S. Holocaust Assets Commission Extension Act of 1999.

TRIBUTE TO ARMY SPECIALIST T. BRUCE CLUFF

Mr. HATCH. Mr. President, I rise today to pay tribute to Army Specialist T. Bruce Cluff of Washington, Utah. Specialist Cluff was one of five American soldiers from the 204th Military Intelligence Battalion stationed at Fort Bliss in El Paso, Texas, who perished when their U.S. Army surveillance plane crashed in the rugged mountains of Colombia while conducting a routine counter narcotics mission in conjunction with the Colombian government.

I am deeply saddened by the loss of this fine young man while in the service of our country. This is a greater tragedy by the fact that Specialist Cluff leaves behind a wife, Meggin, and two young children, Maciah and Ryker, with another child yet to be born. My heart and my prayers go out to them as well as to their extended family.

I also acknowledge and extend my sympathies to the families of the other four American soldiers who perished in the crash. I especially hope that Meggin Cluff, her children, and the other families of these soldiers will feel the immense gratitude that we have for the sacrifice of their loved ones.

Indeed, Specialist T. Bruce Cluff and his crew mates are heroes, as are all of the men and women of our armed forces who everyday unselfishly put life and limb at risk to defend our great nation. Specialist Cluff and his Army unit were engaged in a different type of war. Illegal drug trafficking has become the scourge of our society, and we are determined to stop this practice at its very roots.

The men and women of our armed forces assisting in these offshore interdiction efforts will not be deterred by

the tragic loss of this aircrew. In fact, I suspect they and their families will be all the more motivated to continue the ''war'' against drug trafficking. We should all take due notice of the costs associated with this effort, including the first loss of military lives. We should be unrelenting in our opposition to and our pursuit and prosecution of traffickers as well as pushers of dangerous drugs.

May God bless the memories of Specialist Cluff and his fellow crew members, and give comfort and peace to their families. And may we remember and continue to defend the principles for which these brave young people fought and died for. We owe that commitment to them, to their families, and to those who will continue their work.

## MICROSOFT

Mr. GORTON. Mr. President, as we approach the August recess, my constituents at Microsoft face the task of battling the Department of Justice, DoJ, as well as their competitors in the courts, while continuing to run one of the most successful companies in one of the most competitive industries in American history. I would like to share some interesting developments that have arisen since I last took to the floor of the U.S. Senate to speak to this issue.

Specifically, USA Today recently reported that the Department of Justice is inquiring as to how a possible breakup of Microsoft could be implemented. According to USA Today, unnamed senior officials at DoJ have requested a complex study, which would cost hundreds of thousands of dollars, to assess where Microsoft's logical breakup points would be.

Mr. President, this seems to be putting the cart before the horse. I would hope that the Department of Justice has more important things on which to spend the taxpayers' money. If not, I am aware of several programs included in the Commerce, Justice, State Appropriations bill that could use additional funding.

To put the premature nature of this action in perspective, the findings of fact that summarize the points that each side made during the testimony aren't even due until next week. After Judge Penfield Jackson has had an opportunity to review these documents, the two sides will present closing arguments. Following the closing arguments, Judge Jackson will issue his ''proposed findings of fact.'' In response, the government and Microsoft will prepare another set of legal briefs to argue how antitrust law applies to the facts. Judge Jackson then will hear additional courtroom arguments, and finally issue his ''conclusions of law'' around November.

Should Judge Jackson rule against Microsoft, a verdict with which I would vehemently disagree, another set of hearings on possible ''remedies'' would need to be held. Those proceedings could last several weeks and involve additional witnesses, which would put a final decision off until sometime next spring. Microsoft almost certainly would appeal its case to U.S. Court of Appeals and possibly all the way to the Supreme Court—pushing the time frame out another two years.

Although the timing of this DoJ action is premature, the most intriguing aspect of the July 29, 1999 USA Today article was that the two investment banking firms approached by the DoJ to study the breakup of Microsoft declined the invitation. According to the story, both firms were ''worried about the impact of siding with a Justice Department that they say is viewed in the business community as interventionist.'' If Microsoft were a monopoly, and stifling growth in the Information Technology sector, it seems to me that these technology investment banks would have jumped at the chance to downsize Microsoft in order to open the market to competition, therefore increasing investment opportunities. This is obviously not the case.

Far from being guilty of the charges levied against it, Microsoft is actually winning cases brought by other firms charging anti-competitive behavior. Connecticut-based Bristol Technology Inc., which manufactures a software tool called Wind/U, filed a federal antitrust suit against Microsoft on August 18, 1998. Bristol accused Microsoft of ''refusing to deal'' because Microsoft wouldn't license the source code for Windows NT 4 under Bristol's proposed more favorable terms. Despite never having made more than $1.5 million in net profits in their best year, Bristol was seeking up to $270 million in monetary damages.

Not unlike the suit brought by the DoJ against Microsoft, the Bristol case seemed to be driven more by those trying to gain competitive advantage than by violation of antitrust law. Bristol hired a Public Relations firm to set out its ''David vs. Goliath'' PR campaign while supposedly negotiating in good faith with Microsoft. A member of Bristol's Board of Directors went so far as to send an email to the CEO and senior management discussing what Bristol was then referring to as the ''we-sue-Microsoft-for-money business plan,'' which he proposed might be funded by Microsoft competitors.

I see it as a disturbing trend to have litigation used as a get rich quick scheme instead of protecting ordinary citizens from harm. It is particularly disturbing that the United States government aids and abets this distortion of the American legal system. The insistence of the Department of Justice on continuing its case, in the face of overwhelming evidence that consumers have not been harmed, not to mention that the industry is booming, sets a poor precedent for Americans to follow and can only serve to encourage this behavior.

Fortunately, Bristol's hometown jury took less than two days to return a unanimous verdict. Every one of the antitrust charges were dismissed.

As gratifying as the jurors' commonsense decision was in the Bristol case, they did find against Microsoft on one count—and awarded Bristol one dollar in damages. Mr. President [pull out dollar bill?], I would suggest that the Bristol jurors got it exactly right. In fact, I think that's a pretty good precedent to follow in the DOJ case: assess Microsoft one dollar per indecorous email submitted by government lawyers as ''evidence'' and maybe the total will be a few hundred dollars or so. That wouldn't really give taxpayers much of a return on the estimated $30 to $60 million dollars this lawsuit has cost them, but no matter: what's a few million taxpayer dollars in the pursuit of that most critical of federal mandates, enforcing corporate etiquette?

Mr. President, I ask that an article from the August 5th *Investor's Business Daily* addressing this issue be printed in the CONGRESSIONAL RECORD after my remarks.

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

(See Exhibit 1.)

Mr. GORTON. Another interesting development that has arisen since my last speech is the controversy regarding instant messaging technology. Instant messaging, which allows people to chat in real-time with a select list of agreed-upon users, has become the hottest new on-line application. With over 100 million users, instant messaging shows how the Internet is changing the dynamic of the Information Technology industry.

Let me give you a brief description of the controversy. AOL, Microsoft, Prodigy, and Yahoo all have developed competing instant messaging technology. Unfortunately, users of these competing versions could not communicate with each other until Microsoft, Prodigy, and Yahoo released versions of this technology that allow their users to talk to AOL users. AOL responded by shutting out the competition and complaining that the competing technology was the equivalent of hacking into the AOL system. This is the equivalent of MCI and Sprint users not being able to place long distance calls to one another.

Over the last two weeks, AOL and Microsoft have been engaged in a duck and parry routine over the ability of competing technologies to access AOL users, with Microsoft creating new versions as fast as AOL could block them. I hope that the two sides can come to an agreement soon on the development of an industry standard which will allow for open competition in the marketplace.

With AOL having a 20–1 advantage over the nearest rival in the field, they must hope that Milton Friedman's admonition regarding the ''suicidal tendencies'' of some in the industry in supporting the DOJ's intervention doesn't prove prophetic. I hope that the Justice Department does not feel the

need to get involved. This industry, which is changing and advancing so rapidly, doesn't need the government to lay down speed bumps in the road. The federal government should be fostering growth and monitoring the progress, allowing the smooth flow of the traffic of commerce to continue unimpeded.

Mr. President, I ask unanimous consent to print a recent Wall Street Journal article in the RECORD that illustrates many of the points I have made regarding the absurdity of the DoJ's case against Microsoft. Once again, I implore my colleagues to join me in denouncing this folly.

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

[From the Wall Street Journal, June 30, 1999]

(By Holman W. Jenkins Jr.)

The evidentiary phase of the Microsoft lawsuit wrapped up last week, and it's been an education. If Joel Klein were possessed of any public spirit at all, he would drop the case right now.

Yet there he was on Thursday, declaiming on the courthouse steps that Microsoft represents a ''serious, serious problem'' that only sweeping Justice Department remedies can fix. ''If you think that Microsoft's operating system monopoly is going to go away in two or three years,'' he added, ''then we shouldn't have brought this case. But I obviously don't believe that.''

That last bit is lawyer-speak meaning ''In the real world I don't believe what I'm saying, but in court I believe it.'' Mr. Klein doesn't want future clients to think he's a dim bulb.

He's got a problem. As a matter of law maybe, but certainly as a matter of doing what's right, the evidence and events outside the courtroom have clearly shown Microsoft's ''monopoly'' to be more semantic than real. This month Justice rolled out its latest ringer, an IBM manager who testified Microsoft threatened to withhold a Windows license unless IBM made all sorts of concessions not to promote products that compete with Microsoft's office applications, encyclopedia, etc.

Uh-huh. When all the palavering was done, IBM said ''no'' and got its Windows deal anyway, and a pretty good deal at that.

The same was true of the Apple, Intel and AOL witnesses earlier. That's why the government's case has been built entirely on the premise that Microsoft breaks the law merely by engaging in hard bargaining, never mind what bargains were reached or how events played out.

This might be a good time for Mr. Klein to remember that he works for us, not for Microsoft's competitors. They've been cheerleading for this lawsuit since day one, but they can't afford to mislead the markets the way Justice spins the public. The SEC frowns on CEOs who mislead investors.

Take Larry Ellison. He was on the Neil Cavuto show talking for the umpteenth time about Bill Gates the bullying monopolist. But he hastily drew a line: ''I mean he's never bullied Oracle. But I certainly . . .''

When Mr. Cavuto pressed on, suggesting that Oracle must be dead meat now that the ''bully'' has targeted its flagship database software, Mr. Ellison became indignant:

''Well, let's look at the facts. Right now, the fastest growing segment of my industry is the Internet. Of the 10 largest consumer Web sites, all 10 of them use the Oracle database. In the 10 largest business-to-business Web sites, nine of the 10 use Oracle. None of them use Microsoft. Every single web portal, things like Lycos, Excite, Yahoo!, all use Oracle. None use Microsoft. Microsoft's been in the database business for a decade and they continue to lose. They've been losing share to us at a faster and faster rate over the last several years. In fact, we dominate. We almost have Gates-like share in the Internet and it's the Internet that's driving the business.''

OK, Larry.

Moving along to Sun's Scott McNealy: His partnership with AOL and Netscape has figured prominently in court, with the government swearing a blue stream that their plans don't ''threaten'' Microsoft. That's not what Mr. McNealy told a trade publication, tele.com, in January. What follows is a lot of jargon, but it means Microsoft has a monopoly in nothing:

''We added in Netscape and AOL as distribution channels getting Java 2 into the tens of millions of disks that AOL sends out, so that the world is going to be littered with Java 2, just on the desktop. Then you add in what's going on in Personal Java and Java Card and Java on the server, and all of a sudden we have a very, very interesting, stable volume platform that gives any developer for the telco or ISP community a virus-free, object-oriented, smart card-to-supercomputer scalable, down-the-experience-curve platform that allows you to interoperate with every kind of device you can imagine.''

But nobody spins like AOL's Steve Case. In court, the story is that AOL was ''bullied'' into accepting a free browser from Microsoft (until then, AOL customers had to pay 40 bucks for a Netscape browser). It was ''bullied'' into accepting free placement on every Windows desktop.

These deals made AOL king of the Internet, dwarfing everybody including Microsoft. Now AOL has bought Netscape, but as Mr. Case will smirkingly tell you, it's up to him to decide when to dump Microsoft's browser and begin promoting Netscape's browser instead.

When will that happen? When he no longer cares whether Microsoft kicks him off the desktop (meaning when Microsoft can no longer hope to gain anything by kicking him off the desktop).

AOL has signed up to provide Internet access on the Palm, using a non-Microsoft operating system. Deals are in the works with various smart-phone makers, again bypassing Windows. Mr. Case has spun the court and gullible journalists by saying ''of course'' AOL has no intention of competing directly with Microsoft—which works if your understand of the industry is so skimpy that you believe the relevant threat is another PC operating system.

But, hark, AOL is going to compete on the desktop too. Last week we learned about talks with Microworkz to launch an AOL-branded computer, using BeOS and Linux (i.e., no Windows). Gateway is working on its own Internet computer using the Amiga operating system (yep, the same OS adopted by Commodore in the 1980s).

Faster than anyone predicted, the Windows universe is fragmenting. Microsoft built us a common platform by committing itself to a big, bulky, backwards-compatible Windows, and now it's stuck with a platform too big and bulky to be useful for a new generation of devices. These gadgets will run happily on any number of narrowly targeted, code-light operating systems, as long as they speak the common language of the Internet. Even Mr. McNealy predicts Windows will have less than 50% of the market by 2002—that is, in ''two or three years.''

This was in the cards before Justice ever filed its antitrust suit. We pointed out here three years ago that if ''the future of computing is a toaster tied to the Internet,'' the ''death struggle of the operating systems'' is over. We're happy to report that Microworkz is calling its non-Windows machine the ''iToaster.''

Pursuing this case any further would be nothing but a gratuitous favor to companies that don't want Microsoft to be allowed even to compete. It's time to pull the plug.

EXHIBIT 1

[From the Investor's Business Daily, August 5, 1999]

CASE CLOSED: LAY OFF MICROSOFT

(By Paul Rothstein)

The government's antitrust case against Microsoft continues at a snail's pace. A decision by a U.S. judge is not expected until late this year. In the meantime, eight average citizens in Bridgeport, Conn., have already offered their view in the contest of a lesser known but perhaps equally important antitrust case also involving Microsoft.

Bristol Technology is a small Connecticut-based software company that offers a product allowing users to run Windows-based applications in other operating system environments, including various flavors of Unix. Bristol sued Microsoft in federal court last year, asserting 12 claims for relief under state and federal antitrust laws and seeking as much a $263 million in damages.

Like the government, Bristol alleged Microsoft had an illegal monopoly in the PC operating system market. The suit claimed Microsoft had used it to try to monopolize two other markets—operating system software for ''technical workstations'' and for ''departmental servers.''

At trial, Microsoft presented a compelling case based on hard facts and evidence illustrating stiff competition from the likes of multibillion-dollar companies like IBM and Sun Microsystems. The competition historically has charged consumers much more than Microsoft does. Microsoft's entry in 1993 with Windows NT actually generated significant cost savings for consumers and increased the level of innovation and competition.

Bristol's hometown jury took less than two days to agree with Microsoft. In a unanimous verdict, the jury quickly dismissed every one of the antitrust charges. It upheld only a minor state claim for which the jury awarded Bristol $1 in ''damages.''

Although the specific facts are different, basic similarities exist between the Connecticut case and the government's antitrust suit in D.C.

In both cases, the plaintiffs argued that Microsoft possesses an illegal monopoly with its Windows operating system. Bristol claimed Microsoft's control of the operating system market was so strong and so permanent that any company wishing to produce applications that run on operating systems, must necessarily do Microsoft's bidding. The Justice Department charged that this alleged power was used to thwart competition from Netscape

In both cases, Microsoft showed that the volatile computer industry is not and cannot be dominated by a single player, even one whose product appears to enjoy widespread popularity.

Software is so easy to create that anyone with a home PC and a few hundred dollars can enter the market as a viable competitor to IMB, Sun Microsystems, Hewlett-Packard, Compaq and, yes, even Microsoft.

Just ask Linus Torvalds. He's the creator of the increasingly popular server operating system software called Linux. Torvalds created Linux in the early 1990s in his college dorm room at age 19. Today, the latest International Data Corp. data show Linux with

nearly 20% of the server software market and growing.

The Connecticut lawsuit couldn't show any harm to consumers or competition. The record supported Microsoft's position—that its efforts to provide Windows NT has increased choice, increased features and dramatically reduced prices for customers seeking to use high-end PCs and servers.

Fortunately for all of us, the jury in the Bristol case recognized that antitrust laws are designed to protect competition, not competitors.

It is unfortunate that the Department of Justice, joined by some state attorneys general, does not share that view. Indeed, another lesson from the Bristol case is that the selective and subjective use of out-of-context e-mail snippets, while perhaps good theater, does not prove an antitrust case.

Seen in this light, the Bristol jury's verdict ought to concern the government. Why? If the Bristol verdict illustrates anything, it's that eight everyday consumers can recognize the intense level of competition that exists in today's software industry and the obvious benefits of low prices and better products for consumers.

Given that reality, the government's long battle against America's most admired company is a waste of taxpayer money. It's a flawed proceeding for which consumers clearly have no use.

By issuing a verdict reaffirming the pro-competitive and pro-consumer nature of today's software industry, the Connecticut jury signaled its support of continued innovation and free-market competition.

Paul Rothstein is a professor of law at Georgetown University and a consultant to Microsoft who has studied antitrust law under a U.S. Government Fulbright grant.

## CRANBERRY AMENDMENT TO AGRICULTURE APPROPRIATIONS BILL

Mr. KOHL. Mr. President, I would like to clarify that during the passage of the Agriculture Appropriations bill last night, S. 1233, Senator GORDON SMITH's amendment on cranberry marketing was adopted without the proper co-sponsorship. Mr. SMITH's cranberry marketing amendment, begun by Senator WYDEN, was to be co-sponsored by Senator WYDEN and myself, as well as Senators FEINGOLD, KERRY, KENNEDY, and MURRAY.

Mr. WYDEN. I Thank Senator KOHL. I appreciate the clarification and all his hard work on this issue of importance to cranberry growers across the country. When we go to conference on this bill, I will continue to support this amendment.

## DEPARTMENT OF DEFENSE AUTHORIZATION ACT CONFERENCE REPORT

Mr. REED. Mr. President, I rise tonight to express my regret that I am unable to sign the conference repot on the Fiscal Year 2000 Department of Defense Authorization Act.

This was my first year as a member of the Armed Service Committee. I want to commend Chairman WARNER and Senator LEVIN for their leadership and commitment to our nation's defense. The committee provided ample opportunity for me to learn about the issues, participate in the discussion, and express my views. I believe that the process which created this bill was, overall, thoughtful and fair.

This bill has many excellent provisions. It provides for a significant increase in defense spending but allocates the funds wisely. In creases funds for research and development which we must invest in if we are to remain the world's finest fighting force. It adds additional funds to the service's operation and maintenance accounts which should ease the strain of keeping our bases and equipment in good condition. The bill also funds many of the Service Chief's unfunded requirements, items, that are not flashy but are vital to military readiness.

Certainly the most important parts of this bill are those that address the issue of recruitment and retention. This bill provides for a pay increase, restoration of retirement benefits, and special incentive pays. The bill also begins to address some of the problems identified in the military healthcare system. Our men and women in uniform work tirelessly every day to defend the principles of this country and they deserve the benefits that are included in this legislation.

I have grave concerns, however, over the sections of this bill which affect the Department of Energy. A reorganization of the agency which manages our nation's nuclear arsenal should not be undertaken quickly or haphazardly. Yet this conference report contains language which was not considered by any committee or debated on the floor of either the House or the Senate. The ramifications of these provisions are unclear. Regrettably, I am unable to support a report which contains such provisions until I have had the opportunity to study them further.

I hope that further analysis reveals that this reorganization is workable and that ultimately, I am able to vote in favor of this report. However, at this time, I am reserving my judgment and will not sign the conference report.

## PET SAFETY AND PROTECTION ACT OF 1999

Mr. KENNEDY. Mr. President, I welcome this opportunity to express my strong support for the Pet Safety and Protection Act of 1999, which will protect pets from unscrupulous animal dealers seeking to sell them to labs for biomedical research.

Animals play a critical role in biomedical research, but we must do all we can to ensure that research involving animals is regulated responsibly. Animal dealers and research facilities must be certain that lost or stolen pets do not end up in a research laboratory.

This bill will guarantee that only legitimate dealers who can verify the origin of their animals will be authorized to sell to research facilities. The Pet Safety and Protection Act of 1999 reaffirms the nation's commitment to safe and responsible biomedical research, while maintaining high ethical standards in the treatment of animals.

## ELECTRONIC COMMERCE EXTENSION ESTABLISHMENT ACT OF 1999

Mr. BINGAMAN. Mr. President, yesterday I was pleased to be joined by Senators ROCKEFELLER, SNOWE, and MIKULSKI in introducing the Electronic Commerce Extension Establishment Act of 1999. The purpose of the bill is simple—to ensure that small businesses in every corner of our nation fully participate in the electronic commerce revolution unfolding around us by helping them find and adopt the right e-commerce technology and techniques. It does this by authorizing an ''electronic commerce extension'' program at the National Institute of Standards and Technology modeled on NIST's existing, highly successful Manufacturing Extension Program.

Everywhere you look today, e-commerce is starting a revolution in American business. Precise e-commerce numbers are hard to come by, but by one estimate e-commerce sales in 1998 were $100 billion. If you add in the hardware, software, and services making those sales possible, the number rises to $300 billion. Another estimate has business to business e-commerce growing to $1.3 trillion by 2003. Whatever the exact numbers, an amazing change in our economy has begun.

But the shift to e-commerce is about more than new ways to sell things; it's about new ways to do things. It promises to transform how we do business and thereby boost productivity, the root of long term improvements in our standard of living. A recent Washington Post piece on Cisco Systems, a major supplier of Internet hardware, notes that Cisco saved $500 million last year by selling its products and buying its supplies online. Imagine the productivity and economic growth spurred when more firms get efficiencies like that. And that's the point of the bill, to make sure that small businesses get those benefits too.

Electronic commerce is a new use of information technology and the Ineternet. Many people suspect information technology is the major driver behind the productivity and economic growth we've been enjoying. The crucial verb here is ''use.'' It is the widespread use of a more productive technology that sustains accelerated productivity growth. It was steam engine, not its sales, that powered the industrial revolution.

Closer to today, in 1987, Nobel Prize winning economist Robert Solow quipped, ''We see the computer age everywhere but in the productivity statistics.'' Well, it looks like the computer has started to show up because more people are using them in more ways, like e-commerce. Information technology producers, companies like Cisco Systems who are, notably, some

of the most sophisticated users of IT, are 8% of our economy; from 1995 to 1998 they contributed 35% of our economic growth. There are also some indications that IT is now improving productivity among companies that only use IT.

But here is the real point. If we are going to sustain this productivity and economic growth, we have to spread sophisticated uses of information technology like e-commerce beyond the high tech sector and companies like Cisco Systems and into every corner of the economy, including small businesses. Back in the 1980's, we used to debate if it mattered if we made money selling ''potato chips or computer chips.'' But here is the real difference: consuming a lot of potato chips isn't good for you; consuming a lot of computer chips is.

I emphasize this because too often our discussions of government policy, technology, and economic growth dwell on the invention and sale of new technologies, but shortchange the all important topic of their use. Extension programs, like the electronic commerce extension program in my bill, are policy aimed at precisely spreading the use of more productive technology by small businesses.

With that in mind, the e-commerce revolution creates both opportunities and challenges for small businesses. On the one hand, it will open new markets to them. On the web, the garage shop can look as good as IBM. On the other hand, the high fixed costs, low marginal costs, and technical sophistication that can sometimes characterize e-commerce, when coupled with a good brand name, may allow larger, more established e-commerce firms to quickly move from market to market. Amazon.com has done such a wonderful job of making a huge variety of books widely available that it's been able to expand to CDs, to toys, to electronics, to auctions. Moreover, firms in more rural areas have suddenly found sophisticated, low cost, previously distant businesses entering their market, and competing with them. Thus, there is considerable risk that many small businesses will be left behind in the shift to e-commerce. That would not be good for them, nor for the rest of us, because we all benefit when everyone is more productive and everyone competes.

The root of this problem is the fact that many small firms have a hard time identifying and adopting new technology. They are hard working, but they just don't have the time, people, or money to understand all the different technologies they might use. And, they often don't even know where to turn to for help. Thus, while small firms are very flexible, they can be slow to adopt new technology, because they don't know which to use or what to do about it. That is why we have extension programs. Extension programs give small businesses low cost, impartial advice on what technologies are out there and how to use them.

What might an e-commerce extension program do? Imagine you're a small speciality foods retailer in rural New Mexico and you see e-commerce as a way to reach more customers. But your specialty is chiles, not computers; imagine all the questions you would have. How do I sell over the web? Can I buy supplies that way too? How do I keep hackers out of my system? What privacy policies should I follow? How do I use encryption to collect credit card numbers and guarantee customers that I'm who I am? Can I electronically integrate my sales orders with instructions to shippers like Federal Express? Should I band together with other local producers to form a chile cybermall? What servers, software, and telecommunications will I need and how much will it cost? Your local e-commerce extension center would answer those questions for you. And, you could trust their advice, because you would know they were impartial and had no interest in selling you a particular product.

This bill will lead to the creation of a high quality, nationwide network of non-profit organizations providing that kind of advice, analogous to the Manufacturing Extension Program, or MEP, network NIST runs today, but with a focus on e-commerce and on firms beyond manufacturers. MEP demonstrates that NIST could do this new job well.

Similarly, this bill is modeled on the MEP authorization. It retains the key features of MEP: a network of centers run by non-profits; strict merit selection; cost sharing; and periodic independent review of each center. In addition, it emphasizes serving small businesses in rural or more isolated areas, so that those businesses can get a leg up on e-commerce too. In short, this legislation takes an approach that has already been proven to work.

Practically speaking, if this bill becomes law, I assume NIST would begin by leveraging their MEP management expertise to start a few e-commerce extension centers and then gradually build out a network separate from MEP. I also want to note that this is a new, separate authorization for an e-commerce extension program because it will have a different focus than MEP and because I do not want it to displace MEP in any way.

Mr. President, I hope my colleagues will join me in supporting this important, timely, and practical piece of legislation. Just as a strong agricultural sector called for an agricultural extension service, and a strong industrial sector called for manufacturing extension, our shift to an information economy calls for electronic commerce extension.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, August 4, 1999, the Federal debt stood at $5,615,253,056,263.06 (Five trillion, six hundred fifteen billion, two hundred fifty-three million, fifty-six thousand, two hundred sixty-three dollars and six cents).

One year ago, August 4, 1998, the Federal debt stood at $5,511,741,000,000 (Five trillion, five hundred eleven billion, seven hundred forty-one million).

Five years ago, August 4, 1994, the Federal debt stood at $4,643,455,000,000 (Four trillion, six hundred forty-three billion, four hundred fifty-five million).

Ten years ago, August 4, 1989, the Federal debt stood at $2,811,629,000,000 (Two trillion, eight hundred eleven billion, six hundred twenty-nine million) which reflects a doubling of the debt—an increase of almost $3 trillion—$2,803,624,056,263.06 (Two trillion, eight hundred three billion, six hundred twenty-four million, fifty-six thousand, two hundred sixty-three dollars and six cents) during the past 10 years.

## ADVANCEMENT IN PEDIATRIC AUTISM RESEARCH ACT

Mr. KENNEDY. Mr. President, I welcome the opportunity to join Senator GORTON and many other distinguished colleagues as a sponsor of the Advancement in Pediatric Autism Research Act. Autism is a heartbreaking disorder that strikes at the core of family relationships. We need to do all we can to understand the causes of autism in order to learn how to treat this tragic condition more effectively, and ultimately to prevent it. I want to commend Senator GORTON, the Cure Autism Now Foundation, and the many organizations and families in Massachusetts for their impressive leadership in dealing with this important cause of disability in children. In this age of such extraordinary progress on preventing, treating and curing so many other serious and debilitating illnesses, we cannot afford to miss this unique opportunity for progress against autism as well.

Clearly, we can do more to provide support for children and families who face the tragedy of autism. At the same time, I am concerned about certain provisions in the proposed legislation which could inadvertently cause harm to children with autism and to our system of funding research.

One provision allows use of NIH funds for health care and other services that ''will facilitate the participation'' in research. We must be clear that research dollars should be used only to cover costs that are required to carry out research. Insurance providers should never be able to use participation in research as an excuse to avoid paying for medically necessary health care. In addition, we must be especially careful to protect vulnerable children and families from situations in which financial incentives could affect decisions about participation in research.

I am confident that we can work together to address such issues as the bill moves through Congress. I look forward to working with my colleagues,

with the advocacy organizations and with familes to enact the best possible measure to bring hope to the lives of these very special children.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As an executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## PROPOSED LEGISLATION ''CENTRAL AMERICAN AND HAITIAN PARITY ACT OF 1999''—MESSAGE FROM THE PRESIDENT—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying proposed legislation; which was referred to the Committee on Judiciary:

*To the Congress of the United States:*

I am pleased to transmit for your immediate consideration and enactment the ''Central American and Haitian Parity Act of 1999.'' Also transmitted is a section-by-section analysis. This legislative proposal, which would amend the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA), is part of my Administration's comprehensive effort to support the process of democratization and stabilization now underway in Central America and Haiti and to ensure equitable treatment for migrants from these countries. The proposed bill would allow qualified national of El Salvador, Guatemala, Honduras, and Haiti an opportunity to became lawful permanent residents of the United States. Consequently, under this bill, eligible national of these countries would receive treatment equivalent to that granted to the Nicaraguans and Cubans under NACARA.

Like Nicaraguans and Cubans, many Salvadorans, Guatemalans, Hondurans, and Haitians fled human rights abuses or unstable political and economic conditions in the 1980s and 1990s. Yet these latter groups received lesser treatment than that granted to Nicaraguans and Cubans by NACARA. The United States has a strong foreign policy interest in providing the same treatment to these similarly situated people. Moreover, the countries from which these migrants have come are young and fragile democracies in which the United States has played and will continue to play a very important role. The return of these migrants to these countries would place significant demands on their economic and political systems. By offering legal status to a number of nationals of these countries with longstanding ties in the United States, we can advance our commitment to peace and stability in the region.

Passage of the ''Central American and Haitian Party Act of 1999'' will evidence our commitment to fair and even-handed treatment of nationals from these countries and to the strengthening of democracy and economic stability among important neighbors. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE *August 5, 1999.*

## MESSAGES FROM THE HOUSE

At 9:36 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announcing that the House agrees to the amendments of the Senate to the bill (H.R. 1664) making emergency supplemental appropriations for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999, and for other purposes.

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announcing that the House agrees to the report of the committee of conference on the disagreeing two Houses on the amendment of the Senate to the bill (H.R. 2466) to provide for reconciliation pursuant to sections 105 and 211 of the concurrent resolution on the budget for fiscal year 2000.

ENROLLED BILL SIGNED

At 4:07 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2465. An act making appropriations for military construction, family housing and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4528. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed Manufacturing License Agreement with the Republic of Korea; to the Committee on Foreign Relations.

EC–4529. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles and services under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–4530. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to Denmark; to the Committee on Foreign Relations.

EC–4531. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–4532. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to Russia; to the Committee on Foreign Relations.

EC–4533. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–4534. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services in the amount of $50,000,000 or more to French Guiana; to the Committee on Foreign Relations.

EC–4535. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–4536. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–111, ''Service Improvement and Fiscal Year 2000 Budget Support Act of 1999''; to the Committee on Governmental Affairs.

EC–4537. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–114, ''Designation of Capitalsaurus Court and Technical Correction Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–4538. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–115, ''Closing of a Public Alley in Square 113, S.O. 97–85, Act of 1999''; to the Committee on Governmental Affairs.

EC–4539. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–120, ''Tobacco Settlement Model Temporary Act of 1999''; to the Committee on Governmental Affairs.

EC–4540. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–116, ''Closing of a Public Alley

in Square 507, S.O. 97–183, Act of 1999''; to the Committee on Governmental Affairs.

EC–4541. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–112, ''Alcohol Beverage Control Act Tavern Exception Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–4542. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–113, ''Board of Elections and Ethics Subpoena Authority Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–4543. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–118, ''Bail Reform Temporary Act of 1999''; to the Committee on Governmental Affairs.

EC–4544. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–119, ''Redevelopment Land Agency Disposition Review Temporary Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–4545. A communication from the Deputy Executive Secretary, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Child Support Enforcement Programs', Standards for Program Operations (Case Closure)'', received August 3, 1999; to the Committee on Finance.

EC–4546. A communication from the Deputy Executive Secretary, Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare, Medicare, and CLIA Programs; Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA'' (RIN0938–AI94), received August 3, 1999; to the Committee on Finance.

EC–4547. A communication from the Deputy Executive Secretary, Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''CLIA Programs; Simplifying CLIA Regulations Relating to Accreditation Exemption of Laboratories Under a State Licensure Program; Proficiency Testing, and Inspection'' (RIN0938–AH82), received August 3, 1999; to the Committee on Finance.

EC–4548. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 99–32; Conforming Adjustments Subsequent to Section 482 Allocations'' (Revenue Procedure 99–32), received August 2, 1999; to the Committee on Finance.

EC–4549. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''1998 Differential Earnings Rate'' (Revenue Ruling 99–35), received August 4, 1999; to the Committee on Finance.

EC–4550. A communication from the Acting Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''OASDI and SSI for the Aged, Blind, and Disabled: Determining Disability and Blindness; Clarification of 'Age' as a Vocational Factor'' (RIN0960–AE96), received August 3, 1999; to the Committee on Finance.

EC–4551. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Redesignation of Current Forms BD and BDW as Interim Forms BD and BDW, Amendments to Rules 15b3–1, 15b6–1, 15Ba2–2, 15Bc3–1, 15Ca2–1, 15Cc1–1, under the Securities Exchange Act of 1934 and Delegation of Commission's Authority to Issue Orders under those Rules to the Director of the Division of Market Regulation'' (RIN3235–AH73), received July 30, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–4552. A communication from the Deputy Secretary, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Rule 15b7–3T, Rule 17Ad–21T, Rule 17a–9 under the Securities Exchange Act of 1934'', received July 28, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–4553. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of Grant of Conditional Exception'', received July 29, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–4554. A communication from the Bureau of Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revision of High Performance Computer Licensing Policy'' (RIN0694–AB96), received July 30, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–4555. A communication from the Associate Deputy Administrator, Government Contracting and Minority Enterprise Development, Small Business Administration, transmitting, pursuant to law, a report entitled ''Minority Small Business and Capital Ownership Development'' for fiscal year 1999; to the Committee on Small Business.

EC–4556. A communication from the Deputy Executive Secretary, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Over the Counter Human Drugs, Labeling Requirements'' (RIN0910–AA79), received August 3, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–4557. A communication from the Acting Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tart Cherries Grown in the States of Michigan, etal.; Decreased Assessment Rates'' (Docket No. FV99–930–3 IFR), received July 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4558. A communication from the Acting Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice Governing Proceedings under the Egg Products Inspection Act'' (Docket No. PY–99–003), received August 2, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4559. A communication from the Acting Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Peanut Promotion, Research, and Information Order- Final Rule'' (Docket No. FV–98–702 FR), received August 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4560. A communication from the Acting Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Almonds Grown in California; Revisions to Requirements Regarding Credit for Promotion and Advertising Activities'' (Docket No. FV–99–981 FR), received August 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4561. A communication from the Acting Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Kiwifruit Grown in California; Changes in Minimum Size, Pack, Container, and Inspection Requirements'' (Docket No. FV–98–920 FR), received August 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4562. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Melons Grown in South Texas; Change in Container Regulation'' (Docket No. FV–99–979 FIR), received August 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4563. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in Iowa Marketing Area; Termination of Proceeding'', received August 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4564. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Texas (Splenetic) Fever in Cattle; Incorporation by Reference'' (APHIS Docket No. 96–067–2), received August 2, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4565. A communication from the Acting Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Performance of Certain Functions by the National Futures Association with Respect to Regulation 9.11'', received July 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4566. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled ''Standards of Conduct; Loan Policies and Operations; General Provisions; Regulatory Burden'' (RIN3052–AB85), received August 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4567. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''N-4(4-florophenyl)-N-(1-methylethyl)-2((5-(trifluoromethyl)-1,3,4-Thiadi- azol-2-yl)oxy)acetamide; Pesticide Tolerances for Emergency Exemptions'' (FRL # 6091–9), received August 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4568. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sodium Chlorate; Extension of Exemption from Requirement of a Tolerance for Emergency Exemptions'' (FRL # 6091–6), received August 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4569. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report

of a rule entitled ''Azoxystrobin; Pesticide Tolerances for Emergency Exemptions'' (FRL # 6086–9), received July 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4570. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fenbutatin oxide, Glyphosate, Linuron, and Mevinphos; Tolerance Actions'' (FRL # 6096–2), received July 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4571. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Formaldehyde; Revocations of Exemption from the Requirement of Tolerances'' (FRL # 6097–1), received July 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4572. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference for Rhode Island'' (FRL # 6411–3), received August 3, 1999; to the Committee on Environment and Public Works.

EC–4573. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities; New York'' (FRL # 6414–1), received August 3, 1999; to the Committee on Environment and Public Works.

EC–4574. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Certification Requirements and Work Practice Standards for Individuals and Firms; Amendment'' (FRL # 6097–5), received August 4, 1999; to the Committee on Environment and Public Works.

EC–4575. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors'' (FRL # 6413–3), received August 4, 1999; to the Committee on Environment and Public Works.

EC–4576. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, a report entitled ''Small Equity Compliance Guide-National Volatile Organic Compound Emission Standards for Agricultural Coatings''; to the Committee on Environment and Public Works.

EC–4577. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, a report entitled ''A Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Decision Documents''; to the Committee on Environment and Public Works.

EC–4578. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; 15 Percent Plan for the Metropolitan Washington, DC Ozone Nonattainment Area'' (FRL # 6412-5), received July 29, 1999; to the Committee on Environment and Public Works.

EC–4579. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Authorization of State Hazardous Waste Management Program Revision'' (FRL # 6410–1), received July 28, 1999; to the Committee on Environment and Public Works.

EC–4580. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''New Jersey: Authorization of State Hazardous Waste Management Program'' (FRL # 6411–2), received July 28, 1999; to the Committee on Environment and Public Works.

EC–4581. A communication from the Director, Office of Congressional Affairs, Division of Fuel Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision to 10 CFR Part 70, Domestic Licensing of Special Nuclear Material'' (RIN3150–AF22), received July 29, 1999; to the Committee on Environment and Public Works.

EC–4582. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''10 CFR Part 31-Final Rule to Amend 10 CFR 31.5, 'Requirements for Those Who Possess Certain Industrial Devices Containing By-product Material to Provide Requested Information' '' (RIN3150–AG06), received August 2, 1999; to the Committee on Environment and Public Works.

EC–4583. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''10 CFR Part 31-Final Rule to Amend 10 CFR 31.5, 'General Statement of Policy and Procedures for NRC Enforcement Actions, NUREG–1600 Rev. 1' '', received August 2, 1999; to the Committee on Environment and Public Works.

EC–4584. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to nondisclosure of Safeguards Information for the calendar quarter April 1 to June 30, 1999; to the Committee on Environment and Public Works.

EC–4585. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation relative to the safety of motor carrier operations; to the Committee on Commerce, Science, and Transportation.

EC–4586. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled ''Federal Railroad Safety Enhancement Act of 1999''; to the Committee on Commerce, Science, and Transportation.

EC–4587. A communication from the Director, Minority Business Development Agency, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Identification of Currently Funded Projects Eligible to be Extended for an Additional Year of Funding in Light of MBDA's Intent to Revise Its Client Service-Delivery Programs'' (RIN0640–ZA05), received July 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–4588. A communication from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to amend the Commercial Space Act of 1998; to the Committee on Commerce, Science, and Transportation.

EC–4589. A communication from the Trade Representative, Executive Office of the President, transmitting, pursuant to law, a report relative to responses to recomendations contained in a report entitled ''Building American Prosperity in the 21st Century'', issued in April 1997; to the Committee on Finance.

EC–4590. A communication from the Deputy Executive Secretary, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Child Support Enforcement Programs 'State Plan Requirements', Standard for Program Operations; and Federal Financial Participation (Paternity Establishment)'' (RIN0970–AB69), received August 3, 1999; to the Committee on Finance.

EC–4591. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Documentation Requirements for Matching Credit Card and Debit Card Contributions in Presidential Campaigns'', received August 4, 1999; to the Committee on Rules and Administration.

EC–4592. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of the allotment of emergency funds under the Low-Income Home Energy Assistance Act of 1981; to the Committee on Health, Education, Labor, and Pensions.

EC–4593. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Schedules of Controlled Substances: Rescheduling of the Food and Drug Administration Approved Product Containing Synthetic Dronabinol [(-)-delta-9-(trans)-Tetrahydrocannabinol] in Sesame Oil and Encapsulated in Soft Gelatin Capsules from Schedule II to Schedule III'' (DEA–180F), received August 3, 1999; to the Committee on the Judiciary.

EC–4594. A communication from the Assistant General Counsel for Regulatory Law, Office of Environmental Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Radioactive Waste Management; Radioactive Waste Management Manual; Implementation Guide for Use with Radioactive Waste Management Manual'' (O 435.1; M 435.1; G 435.1), received August 3, 1999; to the Committee on Energy and Natural Resources.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–290. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the proposed ''Estuary Habitat Restoration Partnership Act''; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 128

Whereas, Louisiana's wetlands and estuaries provide critical habitat and food resources for some of our nation's premier recreational and commercial fisheries; and

Whereas, Louisiana's commercial fisheries are the most bountiful of those of the lower forty-eight states, providing a major percentage of our nation's total catch; and

Whereas, the citizens of this state and nation must be ever vigilant in our stewardship of these vital resources; and

Whereas, within the last fifty years, Louisiana has lost forty square miles per year and has lost an estimated twenty-five to thirty-five square miles per year this decade. These losses represent a loss of barrier islands and wetlands that effect the pattern of salinity gradients in our bays, sounds, and inlets which is the foundation for sustaining biological productivity; and

Whereas, United States Senator John Chaffe and United States Senator John Breaux will be introducing the Estuary Habitat Restoration Partnership Act to encourage the restoration of America's vital estuary resources; and

Whereas, the Estuary Habitat Restoration Partnership Act will use federal dollars to encourage and move state, local, and private resources to restore one million acres of estuary habitat by the year 2010.

Therefore, be it *resolved* That the Legislature of Louisiana does hereby memorialize the United States Congress to enact the Estuary Habitat Restoration Partnership Act.

*Be it further resolved*, That a copy of this Resolution be forwarded to the presiding officers of the United States Senate and United States House of Representatives and to the Louisiana congressional delegation.

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POM–291. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the Federal Migratory Bird Conservation Act; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 107

Whereas, to provide the public with the convenience of increased availability of hunting and fishing licenses, many states have implemented or are in the process of implementing an electronic system for the issuance of hunting and fishing licenses; and

Whereas, generally those systems for the electronic issuance of hunting and fishing licenses allow for the issuance of all licenses and permits and stamps which are required by the state; however, no system at this time has the authority to include issuance of the federal duck stamp through its electronic system; and

Whereas, the authority to include issuance of the federal duck stamp would enable a citizen to purchase all required hunting and fishing licenses, permits, and stamps all at one time, in one place, without the necessity of going to another place to purchase just the federal duck stamp; and

Whereas, legislation has been prepared which would allow each state the option of devising their own system to issue, recognize, and account for a temporary electronic federal duck stamp until such time as the actual duck stamp is received in the mail.

Therefore; be it: *Resolved*, That the Louisiana Legislature does hereby memorialize the United States Congress to amend the Federal Migratory Bird Conservation Act (16 U.S.C.A. 715) to authorize certain states to issue temporary federal duck stamp privileges through electronic license issuance systems.

*Be it further resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–292. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the United States-Asia Environmental Partnership, the Environmental Technology Network for Asia, and the Council of State Governments' State Environmental Initiative; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 222

Whereas, the United States Agency for International Development established the United States-Asia Environmental Partnership to address environmental degradation and sustainable development issues in the Asia/Pacific region by mobilizing the environmental experience, technology, and services available in the United States; and

Whereas, the goals of the United States-Asia Environmental Partnership are to foster and disseminate clean technology and environmental management, to develop urban environmental infrastructure, and to establish a policy framework to sustain a ''clean revolution'' to protect the environment; and

Whereas, the United States-Asia Environmental Partnership promotes the development of less-polluting and more resource-efficient products, processes, and services as well as practical solutions to local environmental problems in the Asia/Pacific region; and

Whereas, along with its many partners, the United States-Asia Environmental Partnership stimulates direct technology transfer, develops networks and long-term relationships, disseminates information, identifies financial assistance vehicles, provides grants and fellowships, and organizes business and technology exchanges; and

Whereas, the United States-Asia Environmental Partnership has opened Offices of Technology Cooperation, in thirteen Asian cities, staffed by experts who identify market opportunities, make contacts, and advocate United States environmental technology and services to Asian companies by matching the problems of Asian companies with the appropriate United States environmental experience and technology to solve them; and

Whereas, the United States-Asia Environmental Partnership and the Global Technology Network of the United States Agency for International Development established the Environmental Technology Network for Asia as a clearinghouse to collect environmental trade leads from the Asia/Pacific region and disseminate them to United States environmental technology and services firms; and

Whereas, the Environmental Technology Network for Asia assists program participants by preparing market trend analyses on participating countries, providing business counseling to United States environmental companies interested in expanding into Asia, developing fact sheets on United States technologies, and disseminating that information to United States government counterparts overseas; and

Whereas, through the Environmental Technology Network for Asia, the United States-Asia Environmental Partnership has created over eight thousand one hundred jobs, generated over four thousand trade leads, and matched those leads with two thousand four hundred environmental companies in the United States; and

Whereas, the Council of State Governments and the United States-Asia Environmental Partnership established the State Environmental Initiative, a matching grant program, to encourage international partnerships in environment and economic development between individual states and Asian countries through the transfer of United States environmental experience, technology, and practice from individual states to Asian countries; and

Whereas, the goals of the State Environmental Initiative are to promote the transfer of environmental expertise and technology, facilitate partnerships that link Asian needs with United States environmental experience, technology, and practice, and to initiate a ''clean revolution'' in Asia by promoting clean technology and responsible environmental management; and

Whereas, the State Environmental Initiative fosters the export of United States environmental solutions and experience by matching the needs of Asian countries with appropriate environmental technology and state environmental regulatory experience, by informing United States environmental firms about Asian opportunities, and by sponsoring a matching grant program to encourage international partnerships.

Therefore; be it: *Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to continue to support and fund the United States-Asia Environmental Partnership, the Environmental Technology Network for Asia, and the Council of State Governments' State Environmental Initiative.

*Be it further resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–293. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the DeRidder Automated Flight Service Station; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 216

Whereas, flight service stations are general aviation air traffic control facilities that are an integral part of the air traffic control system and are staffed with highly skilled essential government employees; and

Whereas, flight service stations provide pilots with current and forecasted whether at origination, en route, and at destination, and also as necessary suggest appropriate flight routes and levels and alternate routes or destinations, based upon consideration of weather, operating characteristics of the aircraft, navigation aids, and terrain; and

Whereas, flight service stations provide pilot briefings, en route flight advisories, search and rescue services, assistance to lost and distressed aircraft, relay air traffic control clearances, originate notices to airmen, monitor pilot reports, broadcast aviation weather information, receive and process flight plans, monitor navigational aids, take weather observations, issue airport advisories, and advise Customs and Immigration officials of flights crossing national borders; and

Whereas, flight service stations provide up-to-the-minute weather information in pilot briefings by integrating and interpreting weather information from multiple sources such as satellite imagery, upper air charts, and pilot weather reports, to stay abreast of current weather trends; and

Whereas, flight service stations provide en route flight advisories which are timely and pertinent weather information bulletins prepared by specially trained and highly skilled air traffic specialists who interpret and adapt the latest weather information for the type, route, and altitude of a specific en route flight; and

Whereas, flight service stations are valuable resources that monitor flight plans and provide lifesaving search and services by initiating a chain of events using the combined efforts of several federal agencies to find aircraft that become overdue; and

Whereas, flight service stations control airspace by monitoring gliders and parachute jumps and provide emergency security

control of air traffic when emergency conditions exist which threaten national security by identifying the position of all friendly air traffic and controlling the density of air traffic operating in airspace critical to air defense operations; and

Whereas, flight service stations began as aviation support facilities known as airway radio stations that provided local weather observations and forecasts for military aircraft in World War I and later for air mail aircraft; and

Whereas, the Air Commerce Act brought airway radio stations under the control of the Department of Commerce, and later the Civil Aeronautics Act transferred aeronautical functions from the Department of Commerce to the newly created Civil Aeronautics Authority, which changed the name of the airway radio station to the airway communication station; and

Whereas, during World War II, airway communication stations provided air traffic control services to military aircraft, and the rapid growth of postwar aviation led to the Federal Aviation Act which merged the Civil Aeronautics Authority with other agencies to create the Federal Aviation Agency; and

Whereas, initially airborne pilots could only get verbatim weather reports and forecasts, but in 1961 flight service station personnel were trained as pilot weather briefers and could summarize and interpret weather charts and reports to provide pilot weather briefings aimed at reducing weather-related aviation accidents; and

Whereas, after a series of fatal aviation accidents, the Federal Aviation Agency was renamed the Federal Aviation Administration and transferred to the Department of Transportation with a focus on upgrading radar and computer equipment to reduce weather-related aircraft accidents; and

Whereas, as a result of increasing traffic loads, the flight service automation system was conceived to upgrade and consolidate air navigation facilities to provide better and more efficient air traffic control services; and

Whereas, in accordance with the flight service automation system, the four hundred flight service stations in the country have been consolidated into just over one hundred automated flight service stations; and

Whereas, it is the policy of the United States that the safe operation of the airport and airway system is the highest aviation priority; and

Whereas, it is the duty of the administrator of the Federal Aviation administration to implement this policy by maximizing the effectiveness of the air traffic control system and insuring that all air traffic control stations are adequately staffed and equipped; and

Whereas, to improve air traffic control services and increase air traffic safety, congress passed the Airport and Airway Improvement Act of 1982, the Aviation Safety and Capacity Expansion Act of 1990, and the Air Traffic Management System Performance Improvement Act of 1996; and

Whereas, flight service station personnel are under a duty to both pilots and their passengers to furnish accurate, complete, and current weather information and to suggest appropriate action to avoid storms and dangerous areas; and

Whereas, flight service station personnel are responsible for the consequences of placing aircraft in a position of a peril by negligently furnishing inaccurate weather information; and

Whereas; because the United States has assumed the duty to provide weather information to aircraft for the protection of air travelers, it can be held liable under the Federal Tort Claims Act for the negligence of flight service station personnel who provide inaccurate information to aircraft that rely on it to their detriment; and

Whereas; all of the flight service stations in Louisiana have been consolidated into the DeRidder Automated Flight Service Station, thus making its personnel responsible for all of general aviation in the state; and

Whereas; adequate staffing of the DeRidder Automated Flight Service Station is critical to providing general aviation aircraft in Louisiana essential information for safe and secure air travel; and

Whereas; the DeRidder Automated Flight Service Station often services the entire state with only three or four air traffic control specialists to cover five operational positions; and

Whereas; due to the staffing situation, the supervisor of the DeRidder Automated Flight Service Station will often have to eliminate the recorded daily broadcast of general weather information for pilots and the display of critical weather information used by pilot weather briefers; and

Whereas; additional experienced personnel have not been provided to alleviate the shortage, and the current staff will soon begin spending more time training the new employees that are being hired to replace those that are leaving; and

Whereas; when air traffic becomes too great for the staff, the operational procedure is to transfer calls to another automated flight service station, which results in degraded services to the pilots because the pilot weather briefers taking the transferred calls are not area rated for the state of Louisiana; and

Whereas; this degradation of air traffic control services could pose a serious safety risk to the flying public because it weakens a critical link that pilots need to assess weather conditions along their flight route; and

Whereas; considering that approximately half of all general aviation aircraft accidents are weather-related, and that Louisiana has the highest level of helicopter travel in the nation, general aviation air travelers cannot afford to rely on degraded air traffic control services.

Therefore, be it: *Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to adequately fund and staff the DeRidder Automated Flight Service Station.

*Be it further resolved,* That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–294. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the U.S. Geological Survey's water resource programs; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 185

Whereas, water, in the form of floods, is a major natural hazard to our country's people, property, and environment, and the United States Geological Survey, the USGS, has long been the source nationwide for reliable and accurate water resources data of importance to many people who make critical decisions daily which affect public health and safety; and

Whereas, with our ever-increasing population and urbanization, there is a growing need to develop programs, plans, and facilities to mitigate the effects of flooding throughout the country; and

Whereas, the most accurate and universally used source of water resources data is the USGS and the stream-gauging network they have set up and operated across the country over the period of several decades, which stream-gauging network collects real-time river stage and discharge data which is transmitted by satellite from more than 4,200 USGS stream-gauging stations to various federal agencies such as the National Weather Service, the U.S. Army Corps of Engineers, and the Federal Emergency Management Agency, where it is used to make critical decisions for which inaccurate or inadequate data would have a devastating impact; and

Whereas, the USGS budget for Fiscal Year 2000 anticipates a ten percent reduction in the Federal-State Cooperative program, within which several Louisiana state departments and local agencies participate, a $2.5 million decrease for the Clean Water Action Plan, and a four percent reduction in the Hydrologic Network and Analysis Program; and

Whereas, these are all critical programs to the accuracy and adequacy of water resources data across the country, and particularly in the state of Louisiana where water is such a large part of our lives, our public planning process, and where river stage and discharge information are of critical importance to the preservation of life, property, and water quality, all at a time when the need for streamflow data is increasing rather than decreasing.

Therefore, be it: *Resolved by the House of Representatives of the Louisiana Legislature, the Senate thereof concurring,* That the United States Congress is hereby memorialized to restore budget cuts to the Fiscal Year 2000 budget for the U.S. Geological Survey Water Resources Programs and particularly its State-Federal Cooperative program.

*Be it further resolved,* That a copy of this Resolution be forwarded to each member of the Louisiana delegation and to the presiding officer of each house of the United States Congress.

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POM–295. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the installation of lighting on Interstate Highway 10 and Interstate Highway 310 in the vicinity of the intersection of Jefferson Parish, Louisiana and St. Charles, Parish Louisiana; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 56

Whereas, presently there are no lights on Interstate Highway 10 and Interstate Highway 310 at the intersection of Jefferson Parish, Louisiana, and St. Charles Parish, Louisiana; and

Whereas, this major Interstate interchange is in very close proximity to the New Orleans International Airport; and

Whereas, a person's vision is sharply reduced at night; and

Whereas, the absence of any highway lighting presents a very real safety issue for the New Orleans International Airport; and

Whereas, pilots are unable to properly identify this major intersection and entrance to the metropolitan New Orleans area due to lack of roadway lighting; and

Whereas, lighting would provide pilots with an orderly and predictable landmark outlining where the interchange occurs; and

Whereas, such visual landmark would be an enhancement to both pilots and motorists alike.

Therefore, be it *Resolved,* That the Legislature of Louisiana does hereby memorialize the United States Congress to appropriate sufficient funds to install lighting on Interstate Highway 10 and Interstate Highway 310 in the vicinity of the intersection of Jefferson Parish, Louisiana, and St. Charles Parish, Louisiana.

*Be it further resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–296. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the storage and transportation of hazardous materials; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION NO. 134

Whereas, Louisiana has more than twenty-five percent of the chemical manufacturing and processing plants in the United States; and

Whereas, this large concentration of chemical plants in this state result in many toxic and hazardous chemicals to be transported and stored in rail cars that are in close proximity to residential areas, schools, and churches; and

Whereas, accidents resulting in leaks and discharges of toxic and hazardous chemicals occur in the rail yards, due in part to the length of time that rail cars are allowed to stay in rail yards; and

Whereas, this proximity to residential areas, schools, and churches creates an unusual and exceptional risk to those persons, which federal laws and regulations do not adequately address; and

Whereas, there is a special need in Louisiana to enact more stringent laws and regulations to protect the health, safety, and welfare of the citizens who live and attend schools and churches in close proximity to rail cars that store and transport hazardous materials.

Therefore, be it: *Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to enact legislation which allows Louisiana to impose requirements on the storage and transportation of hazardous materials by rail car that are more stringent than federal requirements.

*Be it further resolved*, That a copy of this Resolution by transmitted to the presiding officers of the United States Senate and United States House of Representatives and to each member of the Louisiana congressional delegation.

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POM–297. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the proposed ''Conservation and Reinvestment Act of 1999''; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 159

Whereas, the United States owns valuable mineral resources that are located both onshore and in the Federal Outer Continental Shelf, and the federal government develops the resources for the benefit of the nation, under certain restrictions designed to prevent environmental damage and other adverse impacts; and

Whereas, the development of the resources is accompanied by unavoidable environmental impacts and public service impacts in the states that host this development; and

Whereas, certain local economies of the state of Louisiana have been devastated by the recent crisis affecting oil production and pricing; and

Whereas, United States Senators Landrieu and Breaux and United States Representatives John, Tauzin, McCrery, Jefferson, and Cooksey are sponsoring the Conservation and Reinvestment Act of 1999 in the 106th Congress of the United states which is designed to provide relief to these devastated local economies.

Therefore, be it: *Resolved*, That the Legislature of Louisiana does memorialize the United States Congress to support the efforts of Senators Landrieu and Breaux and Representatives John, Tauzin, McCrery, Jefferson, and Cooksey to enact the Conservation and Reinvestment Act of 1999 which will aid the local economies devastated by the oil crisis.

*Be it further resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation

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POM–298. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to school bus drivers who own their own buses and are contract employees of a school system; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 98

Whereas, many school systems around the nation, including several here in Louisiana, depend upon contracts with independent school bus drivers who own their own school buses to provide the necessary transportation of students to and from school; and

Whereas, the current federal tax code does not provide for school bus drivers who own their own school buses to itemize their operational expenses and not pay income tax on reimbursement for these expenses; rather, current federal tax code requires independent owners to pay income taxes on operational expense reimbursement; and

Whereas, in the past, such operational expenses were not taxed and school systems issued contract drivers a W2 form and a separate operational expense form and taxes were not deducted from operational expense reimbursement payments, but recent changes in the federal tax code have increased the financial burden on school bus drivers who own their own school bus, thereby making it increasingly difficult for school systems to find qualified, dependable drivers to safely transport children to and from school; and

Whereas, the reinstatement of such federal taxation procedures would impact the safety of school children and the efficacy of our school systems both in Louisiana and across the nation.

Therefore, be it: *Resolved*, That the legislature of Louisiana does memorialize the United States Congress to take appropriate steps, including enacting legislation, necessary to provide that operational expense reimbursement for school bus drivers who own their own buses will be exempt from federal income taxes.

*Be it further resolved*, That a copy of this Resolution be transmitted to the President of the United States, to the Speaker of the United States House of Representatives, and to each member of the Louisiana congressional delegation.

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POM–299. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to Social Security; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 342

Whereas, recipients of Social Security and other government benefits often must consider their financial status and possible loss of benefits when deciding whether to marry; and

Whereas, although a recipient is allowed to keep his own Social Security benefits from his work history when he marries, if his first spouse dies and he remarries before he turns sixty years of age, he loses any benefits due on his first spouse's work record; and

Whereas, if a recipient is receiving Social Security benefits as a divorced spouse and remarries at any age, he loses benefits on the first spouse's work record; and

Whereas, if a recipient receives an annuity from a divorced or deceased spouse's civil service pension, he may lose such benefits forever if he remarries before age fifty-five; and

Whereas, under certain plans, a recipient receiving Supplemental Security Income can lose benefits if he remarries; and

Whereas, the government should encourage the institution of marriage rather than penalize citizens who choose to remarry.

Therefore, be it *Resolved*, That the Legislature of Louisiana does hereby memorialize congress to take measures which would allow recipients of Social Security benefits and other government benefits to marry or remarry without the fear of losing or experiencing a reduction in such benefits or other adverse financial consequences.

*Be it further resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–300. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to Social Security; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 284

Whereas, the term ''notch'' refers to the difference between social security benefits paid to people born between 1917 and 1921, and those paid to people born before and after that time; and

Whereas, the ''notch'' is not a plan to give some people less social security than they are due but rather the result of a mistake in the social security benefit formula; and

Whereas, people born between 1910 and 1916 are getting more benefits than the ''notchers'' due to a windfall caused by the mistake in the benefit formula; and

Whereas, therefore, the ''notchers'' are receiving less benefits each year than their counterparts through no fault of their own and deserve to be compensated on an equal footing with the citizens born between 1910 and 1916; and

Whereas, since 1981, at least 113 bills to redress the discrepancy in retiree benefits due to the ''notch'' have been filed in the United States Congress; and

Whereas, a plan to compensate the ''notchers'' would not put an undue burden on the government as it would only apply to retirees born between 1917 and 1921.

Therefore, be it: *Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to allow people born between 1917 and 1921 to receive the same social security benefits as those persons born between 1910 and 1916.

*Be It further resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–301. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the right of state and local governments to operate pension plans for their employees; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 197

Whereas, most Louisiana state and local government employees have been provided pension plans as a substitute for mandatory participation in the federal social security system; and

Whereas, these plans cover hundreds of thousands of different state and local government employees, including employees of school districts, police officers, firefighters, faculty at institutions of higher education, employees of municipalities, as well as thousands of benefit recipients; and

Whereas, Louisiana's state and local government employee pension plans have been carefully developed with the cooperation of the Legislature of Louisiana, employers, and employees to meet the unique needs of such public employees at a reasonable cost; and

Whereas; these pensions plans are being funded on an actuarial basis and the monies in such plans have been appropriately and successfully invested in diversified investments in accordance with modern portfolio theory; and

Whereas; state and local government employees in Louisiana are covered by many different, separate retirement plans, including statewide plans, local plans, defined benefit plans, and defined contribution plans, all of which meet applicable federal standards; and

Whereas, Louisiana fire, police, and state trooper pension plans offer benefits that are designed to address the physical demands and high risks inherent in pubic safety work and that are not available through the federal social security system, including lower retirement ages and comprehensive death and disability benefits; and

Whereas, it is anticipated that federal legislation will be introduced that would include a requirement that state and local government employees hired after a certain date participate in the federal social security system; and

Whereas, current estimates published by the federal Governmental Accounting Office indicate that participation by state and local government employees in the federal social security system would extend the solvency of the applicable trust funds by only two years, after which time benefits payable to retiring state and local government employees would cause a depletion of monies in those trust funds; and

Whereas, the lack of mandatory participation in the federal social security system by state and local government employees in Louisiana has not been a cause of financial problems affecting that system, and Louisiana state and local government employees receive no special or unfair benefits from that system; and

Whereas, if participation in the federal social security system is mandated for Louisiana state and local government employees, then integrating the federal system with existing state and local pension plans would be an extremely complex process that is likely to result in the loss of some benefits to Louisiana state and local government employees; and

Whereas, a federal mandate that Louisiana state and local government employees participate in the federal social security system may not only threaten the integrity of the existing pension plans for such employees, but it may also affect the public safety and general welfare of the citizens of Louisiana.

Therefore, be it *Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to preserve the right of state and local governments to operate pension plans for their employees in place of the federal social security system, and to develop legislation for responsible reform of the federal social security system that does not include mandatory participation by employees of state and local governments.

*Be it further Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the United States Senate and the United States House of Representatives and to each member of Louisiana's delegation to the United States Congress.

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POM–302. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to acute health care services in Algiers, Louisiana; to the Committee on Health, Education, Labor, and Pensions.

HOUSE CONCURRENT RESOLUTION NO. 343

Whereas, Tenet Louisiana Healthsystem (Tenet) recently closed JoEllen Smith Medical Center (JoEllen Smith), twenty-four-year-old Algiers, Louisiana, hospital, on May 31, 1999; and

Whereas, before JoEllen Smith ever existed, the residents of Algiers always had excellent acute care services through Dr. LaRocca's emergency clinic, which Algiers relied on to stabilize patients before they were transported to one of the area hospitals, the combination ensuring a continuum of excellent medical care; and

Whereas, in 1975, JoEllen Smith Memorial Hospital opened, bringing emergency services and inpatient care to the Algiers community all in one location; and

Whereas, at the time JoEllen Smith opened its doors, the Algiers community welcomed and embraced the hospital by volunteering time and effort to support JoEllen Smith as its very own community hospital, helping to recruit a strong patient base, and loyalty and enthusiasm from the people of Algiers; and

Whereas, in 1980, National Medical Enterprises acquired Jo Ellen Smith; and

Whereas, in 1984, the citizens of Algiers witnessed the opening of the two-hundred-bed Meadowcrest Hospital by National Medical Enterprises (which changed its name to Tenet) in Gretna, Louisiana, with the help of federal money, even though there was never a market for two hospitals in the area; and

Whereas, eventually, as federal dollars ran dry, National Medical Enterprise began discontinuing vital medical services at JoEllen Smith such as obstetric and gynecological, and more severely, cardiac, and acute care services, and transferring such services, as well as money, efforts, and leadership toward the buildup of Meadowcrest Hospital; and

Whereas, JoEllen Smith was supported by a very loyal, robust Algiers patient base in an area with over sixty thousand residents; and

Whereas, ironically, the Algiers community began with an emergency clinic which later developed into a full service hospital, and now the community is left with neither, both facilities being brought down by greed; and

Whereas, twenty-four years later, the residents of Algiers desperately need acute care services just as JoEllen Smith needed the support of the Algiers community twenty-four years earlier.

Therefore, be it: *Resolves*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take what measures are possible on the federal level to ensure that the Algiers community will not be deprived of accessible acute care services.

*Be it further resolved*, That the United States Congress is requested to urge Tenet Louisiana Healthsystem to cooperate with any potential procurers of the site of JoEllen Smith Medical Center to facilitate future acute care services for the residents of Algiers at that site.

*Be it further resolved*, That a copy of this Resolution shall be transmitted to the presiding officers of the Senate and the House of Representatives of the United States Congress and to each member of the Louisiana congressional delegation.

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POM–303. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to a recent article in the Bulletin published by the American Psychological Association; to the Committee on Health, Education, Labor, and Pensions.

HOUSE CONCURRENT RESOLUTION, NO. 215

Whereas, the Psychological Bulletin recently published an article which claims that studies on sexual relationships between adults and children suggests that such relationships do not in general provide intensely negative effects in the vast majority of cases, particularly when the sex is consensual; and

Whereas, the study further suggests that child sexual abuse does not cause intense harm on a pervasive basis in the population studied, and that child sexual abuse has no inevitable or inbuilt outcome or set of emotional results; and

Whereas, the authors of the study also suggests that sexual relations between a child and an adult, if the child had a ''willing encounter with a positive reaction'' might be classified for later research not as sexual abuse but as ''adult-child sex''; and

Whereas, the views expressed in this study defy common sense, are contrary to the experience of professionals who work in the child welfare field, and are contradicted by the views of prominent researchers in the field of child sex abuse; and

Whereas, most experts believe that sexually abused children are at increased risk for such negative clinical conditions as depression, vulnerability to drug and alcohol abuse, sex with other children, low self-esteem, guilt, shame, an inability to distinguish sex from love, and a higher risk of suicide; and

Whereas, pedophilia is harmful to the family unit which is the foundation of our society; and

Whereas, the reality is that so-called consensual sexual relationships between adults and children are always harmful; and

Whereas, this reality is reflected in numerous laws enacted by the Legislature of Louisiana, including child abuse laws and criminal laws which forbid the sexual exploitation of children in this way; and

Whereas, the American Psychological Association study threatens to legitimize the sexual exploitation of children in the minds of potential pedophiles by providing them with a rationale for this reprehensible behavior.

Therefore, be it: *Resolved*, That the Legislature of Louisiana condemns and rejects all claims in the aforementioned study which suggest that pedophilia does not produce pervasive and intensely negative effects on the vast majority of children, and the legislature further rejects any suggestion in the study that sexual relations between adults and children are anything but abusive, destructive, explosive, reprehensible, and against the law; and

*Be it further resolved*, That a copy of this Resolution shall be transmitted to the Honorable Bill Clinton, President of the United States, the Honorable Al Gore, Jr., Vice President of the United States and President of the U.S. Senate, the Honorable Trent Lott, Majority Leader of the U.S. Senate, the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives, the Honorable Mary Landrieu and the Honorable John Breaux, U.S. Senators from Louisiana, the Honorable Mike Foster, Governor of Louisiana, the Honorable Madeline Bagneris, Secretary of the Department of Social Services, and Thomas DeWalt, Executive Officer of the American Psychological Association.

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POM–304. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the appellate jurisdiction of the federal courts regarding partial-birth abortions; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION NO. 257

Whereas, Louisiana is one of twenty-five states which has recently prohibited the specific medical procedure termed ''partial-birth abortions''; and

Whereas, numerous other states are working this legislative session to enact the same ban; and

Whereas, federal district courts have thus far struck down laws in seventeen different states, effectively declaring that partial-birth abortions cannot be banned; and

Whereas, this intrusion of the federal courts into these state decisions concerning this medical procedure can be remedied only by federal congressional action to limit the jurisdiction of these federal courts; and

Whereas, the United States Constitution does not create or regulate these inferior federal courts, but instead explicitly gives congress the power to do so; and

Whereas, the U.S. Constitution makes the jurisdiction of the federal courts subject to congressional proscription through Article III, Section 2, Para. 2, by declaring that federal courts ''shall have appellate jurisdiction both as to law and fact with such exceptions and under such regulations as congress shall make''; and

Whereas, the intent of the framers of our documents was clear on this power of congress, such as when Samuel Chase (a signer of the Declaration of Independence and a U.S. Supreme Court Justice appointed by President George Washington) declared, ''The notion has frequently been entertained that the federal courts derive their judicial power immediately from the constitution; but the political truth is that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise''; and

Whereas, Justice Joseph Story, in his authoritative *Commentaries on the Construction*, similarly declares, ''In all cases where the judicial power of the United States is to be exercised, it is for Congress alone to furnish the rules of proceeding, to direct the process, to declare the nature and effect of the process, and the mode, in which the judgments, consequent thereon, shall be executed . . . And if Congress may confer power, they may repeal it . . . [The power of Congress [is] complete to make exceptions'']; and

Whereas, this position is confirmed not only by the signers of the Constitution themselves, such as George Washington and James Madison, but also by other leading constitutional experts and jurists of the day, including Chief Justice John Rutledge, Chief Justice Oliver Ellsworth, Chief Justice John Marshall, Richard Henry Lee, Robert Yates, George Mason, and John Randolph; and

Whereas, the United States Supreme Court has long recognized and affirmed this power of congress, to limit the appellate jurisdiction of the federal courts, as in 1847 when the court declared that the ''court possesses no appellate power in any case unless conferred upon it by act of Congress'' and in 1865 when it declared ''it is for Congress to determine how far . . . . appellate jurisdiction shall be given; and when conferred, it can be exercised only to the extent and in the manner prescribed by law''; and

Whereas, congress has on numerous occasions exercised this power to limit the jurisdiction of federal courts, and the Supreme Court has consistently upheld this power of congress in rulings over the last two centuries, including cases in 1847, 1866, 1868, 1876, 1878, 1882, 1893, 1898, 1901, 1904, 1906, 1908, 1910, 1922, 1926, 1948, 1952, 1966, 1973, 1977, etc; and

Whereas, it is congress alone which can remedy this current crisis and return to the states the power to make their own decisions on partial-birth abortions by excepting this issue from the appellate jurisdiction of the federal courts.

Therefore, be it: *Resolved*, That the Legislature of Louisiana respectfully appeals to the Congress of these United States to limit the appellate jurisdiction of the federal courts regarding the specific medical practice of partial-birth abortions.

Be it further *resolved*, That a copy of this Resolution be sent to the Speaker of the United States House of Representatives, the President of the United States Senate, and the Chief Clerical Officers of the United States House of Representatives and the United States Senate.

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POM–305. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the Mississippi River Gulf Outlet; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 266

Whereas, the construction and opening of the Mississippi River Gulf Outlet (''Mr. Go'') in 1963 destroyed a 475-foot wide, 37 mile long strip of wetlands and swamps in St. Bernard Parish, and the channel has been further widened to two thousand feet through years of ship traffic wakes eating away at the banks of the channel; and

Whereas, because there are no longer natural levees formed by winding bayous, water from the Gulf of Mexico moves straight up ''Mr. Go'' unimpeded as though it were a superhighway for storm surges caused by hurricanes and other less severe storms, and such influx of water results in increased flooding in St. Bernard Parish, Orleans Parish, and Plaquemines Parish; and

Whereas, because of the destruction of wetlands and marshes resultant from the construction of the Mississippi River Gulf Outlet, there is increased saltwater intrusion which, in turn, has resulted in increased destruction of marshes and freshwater swamps surrounding Lake Borgne; and

Whereas, because of the saltwater intrusion, the hydrology and animal and plant life of the Lake Pontchartrain and Breton Sound basins have been dramatically altered, ''dead zones'' have been created, and seafood yields have been drastically reduced; and

Whereas, hurricane impact in addition to the impact from ''Mr. Go'' make Plaquemines, Orleans, and St. Bernard parishes particularly vulnerable to severe hurricane damage and tropical storms and, in fact, tidal surges have already been measured at speeds of over 18 feet per second; and

Whereas, the increased costs of maintaining the channel, including $35 million spent to dredge the channel after Hurricane Georges swept tons of silt into the channel which blocked the channel to larger ships, an anticipated $7 to $10 million needed each year to maintain the channel, and an anticipated expenditure of another $35 million to rock the north face of the channel, are hardly worth the benefit received by the approximately two ships per day which use the Mississippi River Gulf Outlet; and

Whereas, because of the continued and increased deterioration of the channel and its detrimental impact on the state's wetlands and coastal zone, the state of Louisiana's coastal restoration plan, Coast 2050, calls for the phasing out of the Mississippi River Gulf Outlet:

Therefore, be it *Resolved*, That the Legislature of Louisiana does hereby memorialize the U.S. Congress to appoint a task force to develop a process and plan for the timely closure of the Mississippi River Gulf Outlet.

Be it further *resolved*, That the task force consist of a policy committee and a technical advisory committee and that, within the next twelve months, the task force design and develop a program to phase out the Mississippi River Gulf Outlet with a focus on public safety; maintenance of the economic viability of the St. Bernard Port; and mitigation, preservation, protection, and restoration of wetlands and wetlands habitat.

Be it further *resolved*, That a copy of this Resolution be sent to the presiding officers of the Senate and House of Representatives of the United States Congress, to each member of the Louisiana congressional delegation, and to the U.S. Army Corps of Engineers.

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POM–306. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to military service personnel under the age of twenty-one; to the Committee on Foreign Relations.

HOUSE CONCURRENT RESOLUTION NO. 157

Whereas, under the direction of President Slobodan Milosevic, the Federal Republic of Yugoslavia has repeatedly violated United Nations Security Council resolutions by ordering the unrestrained assault by Yugoslav military, police, and paramilitary forces on Kosovar civilians, thereby creating a massive humanitarian catastrophe which also threatens to destablize the surrounding region; and

Whereas, hundreds of thousands of people have been ruthlessly expelled from Kosovo by the indiscriminate use of force and stripped of their identity and dignity by the Yugoslav government which is responsible for the appalling violations of human rights; and

Whereas, the repression and humanitarian atrocities supported by the Yugoslav government have escalated the conflict between Serbian military and ethnic Albanian forces in Kosovo; and

Whereas, the North Atlantic Treaty Organization is an alliance based on political and military cooperation of independent countries that are committed to safeguarding the freedom, common heritage, and civilization of their peoples; and

Whereas, the North Atlantic Treaty Organization has transformed its political and military structures to enable it to participate in the development of cooperative security structures for the whole of Europe and peacekeeping/crisis management tasks undertaken in cooperation with countries which are not members of the alliance; and

Whereas, the crisis in Kosovo respresents a fundamental challenge to the principles of democracy, individual liberty, human rights, and the rule of law, for which the North Atlantic Treaty Organization has stood since its foundation fifty years ago; and

Whereas, on March 24, 1999, in response to the deepening humanitarian tragedy unfolding in Kosovo as Yugoslav military and security forces continued their attacks on their own people, the combined military forces of the North Atlantic Treaty Organization began an air combat operation, Operation Allied Force, to force the Milosevic regime to withdraw its forces and facilitate the return of refugees to their homes; and

Whereas, the purpose of Operation Allied Force is to disrupt, degrade, and destroy the Yugoslav military and security forces in order to deter and prevent further military actions against innocent civilians until President Milosevic complies with the demands of the international community; and

Whereas, despite continuous air bombing campaigns, President Milosevic has refused to change his oppressive and criminally irresponsible policy of ethnic cleansing and rejected a political agreement that would bring peace and stability to that region of Europe; and

Whereas, as a result of President Milosevic's continued refusal to cease the oppression of the Kosovar civilians, the leaders of the North Atlantic Treaty Organization are meeting to discuss the possibility of expanding Operation Allied Force by sending military ground troops to continue the fight against Yugoslav military and security forces; and

Whereas, sending military ground troops to fight against Yugoslav military and security forces increases the possibility that young American soldiers will be injured or killed and become casualties of war; and

Whereas, as long as there are restrictions and discrimination and the encouragement and enticement for restrictions and discrimination based on age perpetuated by the federal government and sustained by state governments on persons aged eighteen through twenty years, such persons should not be sent to participate in any combat operations until such restrictions and discrimination and the enticement and encouragement therefor cease to exist; and

Whereas, the young men and women of the United States armed forces are the future military leaders of our nation.

Therefore, be it: *Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to ensure that United States military service personnel under the age of twenty-one are not sent to participate in any compact operations carried out by ground troops in Yugoslavia.

Be it further *resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–307. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to the compensation of retired military personnel; to the Committee on Armed Services.

HOUSE CONCURRENT RESOLUTION NO. 205

Whereas, many American servicemen and women have dedicated their careers to protect the rights and privileges that the public at large enjoys and, in doing so, many also endured hardships, privation, the threat of death or disability, and long separations from their families; and

Whereas, career military personnel earn retirement benefits based on longevity, which requires a minimum of twenty years honorable and faithful service at the time of retirement and, by contrast, veterans' disability compensation requires a minimum of ninety days active duty service and is intended to compensate for pain, suffering, disfigurement, chemical-related injuries, wounds, and loss of earnings capacity; and

Whereas, military personnel contribute toward their retirement pay with employee contributions which reduces their congress-approved base pay which some assert is lower than their civilian counterparts and which is paid based on a life and career of hardship, long hours without overtime pay and lack of freedom of expression through employee unions; and

Whereas, integral to the success of the nation's military forces are those soldiers and sailors who have made a career of defending our great country in peace and war from the revolutionary war to present day but, notwithstanding that fact, there exists a gross inequity in the federal statutes that denies disabled career military personnel equal rights to receive veterans' disability compensation concurrent with receipt of earned military retired pay; and

Whereas, veterans who are both retired and disabled are denied concurrent receipt of full retirement pay and disability pay, but instead may receive one or the other or must have deducted from their retirement pay an amount equal to the disability compensation being received by such veterans, and no such deduction applies to federal civil service so that a disabled veteran who has held a nonmilitary federal job for the requisite duration receives full longevity pay undiminished by the subtraction of disability compensation pay; and

Whereas, this injustice and discrimination can only be corrected by legislation which, if enacted into law, will ensure that America's commitment to a strong military in pursuit of national and international goals is a reflection of the allegiance of those who sacrifice on behalf of those goals.

Therefore, be it: *Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to amend the United States Code, Chapter 71, relating to the compensation of retired military personnel, to permit full, concurrent receipt of military longevity pay and service-connected disability compensation pay.

Be it further *resolved*, That copies of this Resolution be transmitted to the president of the United States, to the speaker of the United States House of Representatives, to the president of the United States Senate, and to the members of the Louisiana congressional delegation that they may be apprised of the sense of the Legislature of Louisiana in this matter.

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POM–308. A resolution adopted by the Georgia Association of Black Elected Officials relative to a pending federal criminal investigation; to the Committee on the Judiciary.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 720: A bill to promote the development of a government in the Federal Republic of Yugoslavia (Serbia and Montenegro) based on democratic principles and the rule of law, and that respects internationally recognized human rights, to assist the victims of Serbian oppression, to apply measures against the Federal Republic of Yugoslavia, and for other purposes (Rept. No. 106–139).

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (S.1255) to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes (Rept. No. 106–140).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 97: A bill to require the installation and use by schools and libraries of a technology for filtering or blocking material on the Internet on computers with Internet access to be eligible to receive or retain universal service assistance (Rept. No. 106–141).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 798: A bill to promote electronic commerce by encouraging and facilitating the use of encryption in interstate commerce consistent with the protection of national security, and for other purposes (Rept. No. 106–142).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 199: A bill for the relief of Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko.

S. 275: A bill for the relief of Suchada Kwong.

By MR. HATCH, from the Committee on the Judiciary, with an amendment:

S. 452: A bill for the relief of Belinda McGregor.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 486: A bill to provide for the punishment of methoamphetamine laboratory operators, provide additional resource to combat methamphetamine production, trafficking, and abuse in the United States, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 620: A bill to grant a Federal charter to Korean War Veterans Association, Incorporated, and for other purposes.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of a committee was submitted:

By Mr. HATCH, for the Committee on the Judiciary:

Mervyn M. Mosbacker, Jr., of Texas, to be United States Attorney for the Southern District of Texas for the term of four years.

(The above nomination was reported with the recommendation it 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. MACK (for himself, Ms. MIKULSKI, Mr. GRAMS, Mr. WELLSTONE, and Mr. GRASSLEY):

S. 1499. A bill to title XVIII of the Social Security Act to promote the coverage of frail elderly medicare beneficiaries permanently residing in nursing facilities in specialized health insurance programs for the frail elderly; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. DOMENICI, Mr. DASCHLE, Mr. KERREY, Mr. INOUYE, Mr. BINGAMAN, Mr. COCHRAN, Ms. MIKULSKI, Mr. BURNS, Mrs. BOXER, Mr. McCONNELL, Mr. BUNNING, Mr. JEFFORDS, Mr. ROBB, Mr. SANTORUM, Mr. DODD, and Mrs. FEINSTEIN):

S. 1500. A bill to amend title XVIII of the Social Security Act to provide for an additional payment for services provided to certain high- cost individuals under the prospective payment system for skilled nursing facility services, and for other purposes; to the Committee on Finance.

By Mr. McCAIN:

S. 1501. A bill to improve motor carrier safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REED (for himself and Mr. JOHNSON):

S. 1502. A bill to amend the Federal Election Campaign Act of 1971 to require mandatory spending limits for Senate candidates and limits on independent expenditures, to ban soft money, and for other purposes; to the Committee on Rules and Administration.

By Mr. THOMPSON (for himself and Mr. LIEBERMAN):

S. 1503. A bill to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2003; to the Committee on Governmental Affairs.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1504. A bill to improve health care quality and reduce health care costs by establishing a National Fund for Health Research

that would significantly expand the Nation's investment in medical research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THURMOND:

S. 1506. A bill to suspend temporarily the duty on cyclic olefin copolymer resin; to the Committee on Finance.

By Mr. CAMPBELL:

S. 1507. A bill to authorize the integration and consolidation of alcohol and substance programs and services provided by Indian tribal governments, and for other purposes; to the Committee on Indian Affairs.

S. 1508. A bill to provide technical and legal assistance for tribal justice systems and members of Indian tribes, and for other purposes; to the Committee on Indian Affairs.

S. 1509. A bill to amend the Indian Employment, Training, and Related Services Demonstration Act of 1992, to emphasize the need for job creation on Indian reservations, and for other purposes; to the Committee on Indian Affairs.

By Mr. McCAIN (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mr. MURKOWSKI):

S. 1510. A bill to revise the laws of the United States appertaining to United States cruise vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. DODD, Mr. ROBB, Mr. LEVIN, Mrs. MURRAY, and Mr. DASCHLE):

S. 1511. A bill to provide for education infrastructure improvement, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCAIN:

S. 1512. A bill to provide educational opportunities for disadvantaged children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THOMPSON:

S. 1513. A bill for the relief of Jacqueline Salinas and her children Gabriela Salinas, Alejandro Salinas, and Omar Salinas; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 1514. A bill to provide that countries receiving foreign assistance be conducive to United States business; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mr. DASCHLE, Mr. CAMPBELL, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1515. A bill to amend the Radiation Exposure Compensation Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THOMPSON (for himself and Mr. LIEBERMAN):

S. 1516. A bill to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ALLARD:

S. 1517. A bill to amend title XVIII of the Social Security Act to ensure that medicare beneficiaries have continued access under current contracts to managed health care by extending the medicare cost contract program for 3 years; to the Committee on Finance.

By Mr. BAYH:

S. 1518. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit to long-term caregivers; to the Committee on Finance.

By Mr. COVERDELL (for himself, Mr. KYL, and Mr. ABRAHAM):

S. 1519. A bill to amend the Small Business Act to extend the authorization for the drug-free workplace program; to the Committee on Small Business.

By Mr. SMITH of Oregon (for himself, Mrs. BOXER, Mr. GRAMS, and Mr. DODD):

S. 1520. A bill to amend the U.S. Holocaust Assets Commission Act of 1998 to extend the period by which the final report is due and to authorize additional funding; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SANTORUM:

S. 1521. A bill to require the Secretary of Transportation, through the Congestion Mitigation and Air Quality Program, to make a grant to a nonprofit private entity for the purpose of developing a design for a proposed pilot program relating to the use of telecommuting as a means of reducing emissions of air pollutants that are precursors to ground level ozone; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA:

S. 1522. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. LINCOLN:

S. 1523. A bill to provide a safety net for agricultural producers through improvement of the marketing assistance loan program, expansion of land enrollment opportunities under the conservation reserve program, and maintenance of opportunities for foreign trade in United States agricultural comodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BREAUX:

S. 1524. A bill to amend title 49, United States Code, to provide for the creation of a certification program for Motor Carrier Safety Specialists and certain informational requirements in order to promote highway safety through a comprehensive review of motor carriers; to the Committee on Commerce, Science, and Transportation.

By Mrs. MURRAY (for herself and Mr. INOUYE):

S. 1525. A bill to provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of its claims concerning its contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes; to the Committee on Indian Affairs.

By Mr. ROCKEFELLER (for himself, Mr. ROBB, Mr. SARBANES, Mr. KERRY, Mr. KENNEDY, and Mr. DASCHLE):

S. 1526. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in entities seeking to provide capital to create new markets in low-income communities; to the Committee on Finance.

By Mr. REED:

S. 1527. A bill to amend section 258 of the Communications Act of 1934 to enhance the protections against unauthorized changes in subscriber selections of telephones service providers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. CHAFEE, Mrs. LINCOLN, Mr. WARNER, and Mr. BAUCUS):

S. 1528. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions; to the Committee on Environment and Public Works.

By Mr. FRIST (for himself and Mr. ROBB):

S. 1529. A bill to amend title XVIII to expand the Medicare Payment Advisory Commission to 19 members and to include on such commission individuals with national recognition for their expertise in manufacturing and distributing finished medical goods; to the Committee on Finance.

By Mr. GREGG:

S. 1530. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MOYNIHAN:

S. 1531. A bill to amend the Act establishing Women's Rights National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Waterloo, New York; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself, Mr. LEVIN, Mr. SCHUMER, and Mr. MOYNIHAN):

S. 1532. A bill to amend title 10, United States Code, to restrict the sale or other transfer of armor piercing ammunition and components of armor piercing ammunition disposed of by the Army; to the Committee on Armed Services.

By Mr. KERREY (for himself and Mr. ROBERTS):

S. 1533. A bill to amend the Federal Food, Drug, and Cosmetic Act to require warning labels on certain wine; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself and Mr. McCAIN):

S. 1534. A bill to reauthorize the Coastal Zone Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAMS:

S. 1535. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under part B of the medicare program, and for other purposes; to the Committee on Finance.

By Mr. DEWINE:

S. 1536. A bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAFEE (for himself and Mr. SMITH of New Hampshire):

S. 1537. A bill to reauthorize and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mrs. HUTCHISON, Mr. FEINGOLD, and Mr. MOYNIHAN):

S. 1538. A bill to amend the Communications Act of 1934 to clarify State and local authority to regulate the placement, construction, and modification of broadcast transmission and telecommunications facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself and Mr. DEWINE):

S. 1539. A bill to provide for the acquisition, construction, and improvement of child care facilities or equipment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHNSON:

S. 1540. A bill to amend the Internal Revenue Code of 1986 to correct the inadvertent failure in the Taxpayer Relief Act of 1997 to apply the exception for developable sites to Round I Empowerment Zone and Enterprise Communities; to the Committee on Finance.

S. 1541. A bill to amend the Employee Retirement Income Security Act of 1974 to require annual informational statements by plans with qualified cash or deferred arrangements, and for other purposes; to the

Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN:

S. 1542. A bill to amend the Federal Food, Drug, and Cosmetic Act to require any person who reprocesses a medical device to comply with certain safety requirements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL (for himself, Mr. HELMS, Mr. BUNNING, Mr. COVERDELL, Mr. EDWARDS, Mr. ROBB, and Mr. WARNER):

S. 1543. A bill to amend the Agricultural Adjustment Act of 1938 to release and protect the release of tobacco production and marketing information; considered and passed.

By Mr. ALLARD:

S. 1544. A bill to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM:

S. 1545. A bill to require schools and libraries receiving universal service assistance to install systems or implement policies for blocking or filtering Internet access to matter inappropriate for minors, to require a study of available Internet blocking or filtering software, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES (for himself, Mr. LIEBERMAN, and Mr. HAGEL):

S. 1546. A bill to amend the International Religious Freedom Act of 1998 to provide additional administrative authorities to the United States Commission on International Religious Freedom, and to make technical corrections to that Act, and for other purposes; considered and passed.

By Mr. BURNS (for himself, Mr. WYDEN, Mr. LOTT, and Mr. HOLLINGS):

S. 1547. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself and Mr. BINGAMAN):

S. 1548. A bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. HOLLINGS, and Mr. DORGAN):

S. 1549. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WELLSTONE:

S. 1550. A bill to extend certain Medicare community nursing organization demonstration projects; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. HOLLINGS, Mr. DORGAN, Mr. LEVIN, Ms. MIKULSKI, and Mr. KENNEDY):

S. 1551. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 1552. A bill to eliminate the limitation on judicial jurisdiction imposed by section 377 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN:

S. 1553. A bill establish a program to assist homeowners experiencing unavoidable, temporary difficulty making payments on mortgages insured under the National Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1554. A bill to provide for the conveyance of certain property from the United States to Stanislaus County, California; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself and Mr. KENNEDY):

S. 1555. A bill to provide sufficient funds for the research necessary to enable an effective public health approach to the problems of youth suicide and violence, and to develop ways to intervene early and effectively with children and adolescents who suffer depression or other mental illness, so as to avoid the tragedy of suicide, violence, and long-term illness and disability; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Mrs. MURRAY, Mr. KENNEDY, Mr. HARKIN, and Mr. BINGAMAN):

S. 1556. A bill to amend the Elementary and Secondary Education Act of 1965 to strengthen the involvement of parents in the education of their children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERREY (for himself and Mr. GRASSLEY):

S. 1557. A bill to amend the Internal Revenue Code of 1986 to codify the authority of the Secretary of the Treasury to issue regulations covering the practices of enrolled agents; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. HATCH):

S. 1558. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for holders of Community Open Space bonds the proceeds of which are used for qualified environmental infrastructure projects, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 1559. A bill to amend title 49, United States Code, to enhance the safety of motor carrier operations and the Nation's highway system, including highway-rail crossings, by amending existing safety laws to strengthen commercial driver licensing, to improve compliance, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1560. A bill to establish the Shivwits Plateau National Conservation Area; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM:

S. 1561. A bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes; to the Committee on the Judiciary.

By Mr. NICKLES:

S. 1562. A bill to amend the Internal Revenue Code of 1986 to classify certain franchise operation property as 15-year depreciable property; to the Committee on Finance.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, and Mr. HAGEL):

S. 1563. A bill to establish the Immigration Affairs Agency within the Department of Justice, and for other purposes; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself, Mr. STEVENS, Mr. ROTH, and Ms. COLLINS):

S. 1564. A bill to protect the budget of the Federal courts; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SARBANES (for himself, Mr. EDWARDS, Mr. BAYH, and Mr. KERRY):

S. 1565. A bill to license America's Private Investment Companies and provide enhanced credit to stimulate private investment in low-income communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLARD:

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution of the United States granting the President the authority to exercise an item veto of individual appropriations in an appropriations bill; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

S.J. Res. 32. A joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROTH. (for himself and Mr. LUGAR):

S. Res. 175. A resolution expressing the sense of the Senate regarding United States policy toward the North Atlantic Treaty Organization, in light of the Alliance's April 1999 Washington Summit and the conflict in Kosovo; to the Committee on Foreign Relations.

By Mr. HELMS (for himself, Mr. BIDEN, Mr. COVERDELL, Mr. DE WINE, Mr. GRASSLEY, Mr. FRIST, Mr. TORRICELLI, Mr. GRAHAM, Mr. LEAHY, Mr. ASHCROFT, Mr. HUTCHINSON, Mr. LUGAR, Mr. BENNETT, and Mrs. HUTCHISON):

S. Res. 176. A resolution expressing the appreciation of the Senate for the service of United States Army personnel who lost their lives in service of their country in an anti-drug mission in Colombia and expressing sympathy to the families and loved ones of such personnel; considered and agreed to.

By Mr. WELLSTONE:

S. Res. 177. A resolution designating September, 1999, as ''National Alcohol and Drug Addiction Recovery Month''; considered and agreed to.

By Mr. THURMOND (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. SARBANES, Mr. TORRICELLI, Mr. CLELAND, Mr. HOLLINGS, Mr. ROBB, Mr. FRIST, Mr. LINCOLN, Mr. THOMPSON, Mr. MACK, Mrs. FEINSTEIN, Mr. ABRAHAM Mr. LOTT, Mr. SPECTER, Mr. EDWARDS, Mr. COVERDELL, Mr. NICKLES, Mr. SCHUMER, Mr. GRASSLEY, Mr. BROWNBACK, Mr. ASHCROFT, Mr. DODD, Mr. LIEBERMAN, Mr. CRAIG, Mr. LAUTENBERG, Mr. DURBIN, Mr. SESSIONS):

S. Res. 178. A resolution designating the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week''; to the Committee on the Judiciary.

By Mr. LOTT:

S. Con. Res. 51. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

By Mr. ASHCROFT:

S. Con. Res. 52. A concurrent resolution expressing the sense of Congress in opposition to a ''bit tax'' on Internet data proposed in the Human Development Report 1999 published by the United Nations Development Programme; to the Committee on Foreign Relations.

Mrs. FEINSTEIN (for herself, Ms. MUKULSKI, Mrs. BOXER, Mr. AKAKA, Mr. BINGAMAN, and Mr. SARBANES):

S. Con. Res. 53. A concurrent resolution condemning all prejudice against individuals of Asian and Pacific Island ancestry in the United States and supporting political and civic participation by such individuals throughout the United States; to the Committee on the Judiciary.

By Mrs. BOXER (for herself and Mr. HELMS):

S. Con. Res. 54. A concurrent resolution expressing the sense of Congress that the Auschwitz-Birkenau state museum in Poland should release seven paintings by Auschwitz survivor Dina Babbitt made while she was imprisoned there, and that the governments of the United States and Poland should facilitate the return of Dina Babbit's artwork to her; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MACK (for himself, Ms. MIKULSKI, Mr. GRAMS, Mr. WELLSTONE, and Mr. GRASSLEY):

S. 1499. A bill to title XVIII of the Social Security Act to promote the coverage of frail elderly Medicare beneficiaries permanently residing in nursing facilities in specialized health insurance programs for the frail elderly; to the Committee on Finance.

MEDICARE'S ELDERLY RECEIVING INNOVATIVE TREATMENTS (MERIT) ACT OF 1999

Mr. MACK. Mr. President, today I am pleased to join my colleagues, Senator MIKULSKI, Senator WELLSTONE, and Senator GRAMS, in sponsoring the Medicare's Elderly Receiving Innovative Treatments (MERIT) Act of 1999.

This legislation ensures that frail elderly persons residing in nursing homes continue to have the opportunity for improved quality of care and better health outcomes provided by the EverCare program. This program is reimbursed by Medicare on a capitated fee basis to managed care organizations that deliver preventive and primary medical care geared to the special needs of this population. Care is given by nurse practitioner/physician primary care teams which also coordinate care when the patient is hospitalized. Ideally, as much care as possible is provided at the nursing home thus preventing the expense of hospitalization. A major goal is to maintain stability in the patients' life by caring for them in their place of residence. The typical patient is over 85, 82 percent are female, 75 percent are on Medicaid and 70 percent have dementia.

The Balanced Budget Act of 1997 (BBA) requires the Health Care Financing Administration (HCFA) to establish a new risk-adjusted methodology for payments to health plans which is to go into effect on January 1, 2000. An interim risk adjusted payment will be based on inpatient hospital encounter data. However, an unintended consequence of this methodology may be a dramatic drop in EverCare payments by more than 40 percent, according to Long Term Care Data Institute study. This would jeopardize the program, which is currently comprised of demonstration and non-demonstration components, since providers could not afford to remain in business. HCFA recognized the possibly of this and did grant an exemption from the interim methodology for one year, 2000–2001. HCFA, however, has not yet presented a methodology that would be fair and adequate to ensure the continuance of EverCare.

This legislation exempts programs serving the frail elderly living in nursing homes from the phased in risk-adjustment payment methodology and continues payments using the current system. It directs HCFA to develop a distinct payment methodology which meets the needs of these patients and to establish performance measurement standards. It also allows the frail elderly to join EverCare on a continual basis without regard to enrollment periods.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1499

*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 ''Medicare's Elderly Receiving Innovative Treatments (MERIT) Act of 1999''.

**SEC. 2. MODIFICATION OF PAYMENT RULES.**

Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking ''subsections (e) and (f)'' and inserting ''subsections (e) through (i)'';

(B) in paragraph (3)(D), by inserting ''and paragraph (4)'' after ''section 1859(e)(4)''; and

(C) by adding at the end the following:

''(4) EXEMPTION FROM RISK-ADJUSTMENT SYSTEM FOR FRAIL ELDERLY BENEFICIARIES ENROLLED IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—

''(A) IN GENERAL.—During the period described in subparagraph (B), the risk-adjustment described in paragraph (3) shall not apply to a frail elderly Medicare+Choice beneficiary (as defined in subsection (i)(3)) who is enrolled in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in subsection (i)(2)).

''(B) PERIOD OF APPLICATION.—The period described in this subparagraph begins with January 2000, and ends with the first month for which the Secretary certifies to Congress that a comprehensive risk adjustment methodology under paragraph (3)(C) (that takes into account the types of factors described in subsection (i)(1)) is being fully implemented.''; and

(2) by adding at the end the following:

''(i) SPECIAL RULES FOR FRAIL ELDERLY ENROLLED IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—

''(1) DEVELOPMENT AND IMPLEMENTATION OF NEW PAYMENT SYSTEM.—The Secretary shall develop and implement (as soon as possible after the date of enactment of this subsection), during the period described in subsection (a)(4)(B), a payment methodology for frail elderly Medicare+Choice beneficiaries enrolled in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in paragraph (2)(A)). Such methodology shall account for the prevalence, mix, and severity of chronic conditions among such beneficiaries and shall include medical diagnostic factors from all provider settings (including hospital and nursing facility settings). It shall include functional indicators of health status and such other factors as may be necessary to achieve appropriate payments for plans serving such beneficiaries.

''(2) SPECIALIZED PROGRAM FOR THE FRAIL ELDERLY DESCRIBED.—

''(A) IN GENERAL.—For purposes of this part, the term 'specialized program for the frail elderly' means a program which the Secretary determines—

''(i) is offered under this part as a distinct part of a Medicare+Choice plan;

''(ii) primarily enrolls frail elderly Medicare+Choice beneficiaries; and

''(iii) has a clinical delivery system that is specifically designed to serve the special needs of such beneficiaries and to coordinate short-term and long-term care for such beneficiaries through the use of a team described in subparagraph (B) and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

''(B) SPECIALIZED TEAM.—A team described in this subparagraph—

''(i) includes—

''(I) a physician; and

''(II) a nurse practitioner or geriatric care manager, or both; and

''(ii) has as members individuals who have special training and specialize in the care and management of the frail elderly beneficiaries.

''(3) FRAIL ELDERLY MEDICARE+CHOICE BENEFICIARY DESCRIBED.—For purposes of this part, the term 'frail elderly Medicare+Choice beneficiary' means a Medicare+Choice eligible individual who—

''(A) is residing in a skilled nursing facility or a nursing facility (as defined for purposes of title XIX) for an indefinite period and without any intention of residing outside the facility; and

''(B) has a severity of condition that makes the individual frail (as determined under guidelines approved by the Secretary).''.

**SEC. 3. CONTINUOUS OPEN ENROLLMENT FOR QUALIFIED INDIVIDUALS.**

(a) IN GENERAL.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended by adding at the end the following:

''(7) SPECIAL RULES FOR FRAIL ELDERLY MEDICARE+CHOICE BENEFICIARIES ENROLLING IN SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY.—There shall be a continuous open enrollment period for any frail elderly Medicare+Choice beneficiary (as defined in section 1853(i)(3)) who is seeking to enroll in a Medicare+Choice plan under a specialized program for the frail elderly (as defined in section 1853(i)(2)).''.

(b) CONFORMING AMENDMENTS.—

(1) OPEN ENROLLMENT PERIODS.—Section 1851(e)(6) of the Social Security Act (42 U.S.C. 1395w–21(e)(6)) is amended—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting at the end of subparagraph (A) the following:

''(B) that is offering a specialized program for the frail elderly (as defined in section 1853(i)(2)), shall accept elections at any time for purposes of enrolling frail elderly Medicare+Choice beneficiaries (as defined in section 1853(i)(3)) in such program; and''.

(2) EFFECTIVENESS OF ELECTIONS.—Section 1851(f)(4) of the Social Security Act (42 U.S.C. 1395w–21(f)(4)) is amended by striking ''subsection (e)(4)'' and inserting ''paragraph (4) or (7) of subsection (e)''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

**SEC. 4. DEVELOPMENT OF QUALITY MEASUREMENT PROGRAM.**

(a) IN GENERAL.—Section 1852(e) of the Social Security Act (42 U.S.C. 1395w–22(e)) is amended by adding at the end the following:

''(5) QUALITY MEASUREMENT PROGRAM FOR SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY AS PART OF MEDICARE+CHOICE PLANS.—The Secretary shall develop and implement a program to measure the quality of care provided in specialized programs for the frail elderly (as defined in section 1853(i)(2)) in order to reflect the unique health aspects and needs of frail elderly Medicare+Choice beneficiaries (as defined in section 1853(i)(3)). Such quality measurements may include indicators of the prevalence of pressure sores, reduction of iatrogenic disease, use of urinary catheters, use of anti-anxiety medications, use of advance directives, incidence of pneumonia, and incidence of congestive heart failure.''.

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first provide for the implementation of the quality measurement program for specialized programs for the frail elderly under the amendment made by subsection (a) by not later than July 1, 2000.

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By Mr. HATCH (for himself, Mr. DOMENICI, Mr. DASCHLE, Mr. KERREY, Mr. INOUYE, Mr. BINGAMAN, Mr. COCHRAN, Ms. MIKULSKI, Mr. BURNS, Mrs. BOXER, Mr. MCCONNELL, Mr. BUNNING, Mr. JEFFORDS, Mr. ROBB, Mr. SANTORUM, and Mr. DODD):

S. 1500. A bill to amend title XVIII of the Social Security Act to provide for an additional payment for services provided to certain high-cost individuals under the prospective payment system for skilled nursing facility service, and for other purposes; to the Committee on Finance.

MEDICARE BENEFICIARY ACCESS TO QUALITY NURSING HOME CARE ACT OF 1999

Mr. HATCH. Mr. President, I rise today along with the distinguished Chairman of the Budget Committee, Senator DOMENICI, and other colleagues in introducing the ''Medicare Beneficiary Access to Quality Nursing Home Care Act of 1999.'' This bill will help ensure that Medicare beneficiaries will continue to have access to vitally needed nursing home care services.

When Congress passed the Balanced Budget Act of 1997, the BBA, we created a new prospective payment system (PPS) for skilled nursing facilities (SNF). While the industry generally supported the SNF PPS, there clearly have been some unintended consequences as a result of the implementation the new payment system which is now beginning to affect patient care.

We have an obligation to Medicare beneficiaries, and particularly those in nursing homes as well as those who need to gain admission to nursing homes, to correct this problem. This legislation is designed specifically to address the problem with patient access to nursing home care.

The measure we are introducing today is designed to address two significant problems that have occurred as a result of the implementation of the PPS.

First, the bill provides additional monies to care for the so-called high-acuity SNF patients who require non-therapy ancillary services for conditions such as cancer, hip fracture, and stroke.

Second, with respect to the market basket update, the bill closes the gap between the inaccurate inflation market basket estimate and the actual cost increases between fiscal years 1995 and 1998.

It is my understanding that both solutions could be easily implemented by HCFA.

Mr. President, let me focus more specifically on each of the two provisions.

With respect to non-therapy ancillary care, the bill proposes to add-on additional monies under the federal per diem rate for 15 categories of care. We are now finding that high-acuity and medically complex patients are being shortchanged because the current case-mix system does not accurately measure or account for patients with high medical complexities which utilize greater ancillary services.

HCFA has even acknowledged that they do not have accurate data to properly compensate for such non-therapy ancillary care. According to HCFA, they believe that more accurate data reflecting the case-mix for sicker patients should be available in 2001.

Unfortunately, we now know that beneficiaries are having difficulty receiving non-therapy ancillary care today. For some, waiting 2 years for the HCFA data is simply not an option.

Accordingly, the ''Medicare Beneficiary Access to Quality Nursing Home Care Act'' will provide interim relief until HCFA has developed more complete and accurate data. The bill provides additional funds for 15 RUS III categories, or the so-called resource utilization groups.

These RUGS were chosen because they represent categories of services that closely match the diagnoses for high-acuity patients. Such additional funds would only be provided for a two-year period, or less, until the Secretary of Health and Human Services has corrected the data to properly reflect the costs of non-therapy ancillary care.

It is my understanding that HCFA believes they can implement a new case mix methodology within this time frame.

In response to concerns expressed to me by HCFA over Y2K problems and the difficulty of any systems' changes at this point in the PPS implementation, my bill provides for a simple, temporary add-on federal dollars to the federal per diem component.

Based on informal comments from HCFA officials, the bill should be easy for the agency to implement in time to have an immediate positive impact on patient care.

The second feature in our bill attempts to close the gap between the inflation adjuster—the market basket update—and the actual cost increases. Recent data are now showing that HCFA's market basket increase is well below actual inflation costs for nursing home care.

When Congress passed the BBA, the year 1995 was chosen as the base year for future inflation adjustments because it provided the most recent set of complete cost reporting data for PPS implementation.

HCFA was charged with developing a market basket of nursing home goods and services to trend forward to 1998, which was when PPS was implemented. Unfortunately, it appears that HCFA has underestimated the market basket index by not considering the cost of nursing home services. In addition, the statute requires the inflation adjuster to be market basket minus one, which only makes the estimate worse.

Evidence is now available to illustrate that the market basket estimate is inadequate to properly compensate for nursing home care.

In 1996, HCFA's market basket increase was approximately 2.7 percent, while data now indicates that the actual cost increase was approximately 10.5 percent. Preliminary 1997 cost data reflect similar differences between the HCFA market basket index and the actual change in costs experienced by nursing facilities.

My legislation provides easily implemented relief to nursing homes which are being short changed by inadequate market basket estimates. The bill eliminates the ''minus one'' from the inflation adjuster for 1996, 1997, and 1998, thereby providing a one-percent increase of the index over three years, compounded.

While there may need to be further modification to the actual market basket, this straightforward legislative solution enables HCFA to implement this provision immediately. This solution will provide meaningful and practical relief to nursing homes so they can continue to provide quality care for the more medically complex Medicare beneficiaries.

Mr. President, many nursing homes are on the verge of filing for bankruptcy and others may be closing their doors due to various PPS implementation problems. As a result, Medicare beneficiaries are finding themselves on long waiting lists to be admitted to a skilled nursing facility. Others are remaining in hospitals for extended stays, while they wait for nursing home availability.

The ''Medicare Beneficiary Access to Quality Nursing Home Care Act'' is a common sense solution to address these very real problems. It provides

two solutions that HCFA can implement today without being mired in Year 2000 compliance efforts.

I would add that I am pleased that the Chairman of the Finance Committee, Senator ROTH, has indicated his interest in moving a bipartisan BBA technical bill following the August recess.

I have written to Senator ROTH asking him to carefully review our skilled nursing facility bill as he develops a BBA technical corrections bill over the next several weeks. I strongly believe this bill serves as a viable option on which to address the PPS problem that so many nursing homes are facing today.

I ask unanimous consent that the complete text of the bill be printed in the RECORD.

Mr. President, I want to express my thanks to my colleague and good friend, Senator DOMENICI, for his valued help in developing the bill with me as well as to the many others Senators who have joined us today as cosponsors.

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

S. 1500

*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 ''Medicare Beneficiary Access to Quality Nursing Home Care Act of 1999''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Beneficiaries under the medicare program under title XVIII of the Social Security Act are experiencing decreased access to skilled nursing facility services due to inadequate reimbursement under the prospective payment system for such services under section 1888(e) of such Act.

(2) Such inadequate reimbursement may force skilled nursing facilities to file for bankruptcy and close their doors, resulting in reduced access to skilled nursing facility services for medicare beneficiaries.

(3) The methodology under the prospective payment system for skilled nursing facility services has made it more difficult for medicare beneficiaries to find nursing home care. Some beneficiaries are remaining in hospitals for extended stays due to reduced access to nursing homes. Others are placed in nursing homes that are hours away from family and friends.

(4) The Health Care Financing Administration has indicated that the prospective payment system for skilled nursing facility services does not accurately account for the costs associated with providing medically complex care (non-therapy ancillary services and supplies). Due to Year 2000 problems, the Health Care Financing Administration claims that it will be unable to properly account for such costs under such system.

(5) The Medicare Payment Advisory Commission (MedPAC) has indicated that payments to skilled nursing facilities under the medicare program may not be adequate for beneficiaries who need relatively high levels of non-therapy ancillary services and supplies. According to MedPAC, such inadequate funding could result in access problems for beneficiaries with medically complex conditions.

(6) In order to provide adequate payment under the prospective payment system for skilled nursing facility services, such system must take into account the costs associated with providing 1 or more of the following services:

(A) Ventilator care.

(B) Tracheostomy care.

(C) Care for pressure ulcers.

(D) Care associated with individuals that have experienced a stroke or a hip fracture.

(E) Care for non-vent, non-trach pneumonia.

(F) Dialysis.

(G) Infusion therapy.

(H) Deep vein thrombosis.

(I) Care associated with individuals with transient peripheral neuropathy, a chronic obstructive pulmonary disease, congestive heart failure, diabetes, a wound infection, a respiratory infection, sepsis, tuberculosis, HIV, or cancer.

(7) A temporary legislative solution is necessary in order to ensure that medicare beneficiaries with complex conditions continue to receive access to appropriate skilled nursing facility services.

(8) The skilled nursing facility market basket increase over the last 3 years evidences a critical payment gap that exists between the actual cost of providing services to medicare beneficiaries residing in a skilled nursing facility and the reimbursement levels for such services under the prospective payment system. In addition, the Health Care Financing Administration, in establishing the skilled nursing facility market basket index under section 1888(e)(5)(A) of the Social Security Act only accounted for the cost of goods, but not for the cost of services, as such section requires.

**SEC. 3. MODIFICATION OF CASE MIX CATEGORIES FOR CERTAIN CONDITIONS.**

(a) IN GENERAL.—For purposes of applying any formula under paragraph (1) of section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)), for services provided on or after October 1, 1999, and before the earlier of October 1, 2001, or the date described in subsection (c), the Secretary of Health and Human Services shall increase the adjusted Federal per diem rate otherwise determined under paragraph (4) of such section for services provided to any individual during the period in which such individual is in a RUGS III category by the applicable payment add-on as determined in accordance with the following table:

| RUGS III Category | Applicable Payment Add-On |
|---|---|
| RUC | $73.57 |
| RUB | $23.06 |
| RUA | $17.04 |
| RVC | $76.25 |
| RVB | $30.36 |
| RVA | $20.93 |
| RHC | $54.07 |
| RHB | $27.28 |
| RHA | $25.07 |
| RMC | $69.98 |
| RMB | $30.09 |
| RMA | $24.24 |
| SE3 | $98.41 |
| SE2 | $89.05 |
| CA1 | $27.02. |

(b) UPDATE.—The Secretary shall update the applicable payment add-on under subsection (a) for fiscal year 2001 by the skilled nursing facility market basket percentage change (as defined under section 1888(e)(5)(B) of the Social Security Act (42 U.S.C. 1395yy(e)(5)(B)) applicable to such fiscal year.

(c) DATE DESCRIBED.—The date described in this subsection is the date that the Secretary of Health and Human Services implements a case mix methodology under section 1888(e)(4)(G)(i) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(G)(i)) that takes into account adjustments for the provision of nontherapy ancillary services and supplies such as drugs and respiratory therapy.

**SEC. 4. MODIFICATION TO THE SNF UPDATE TO FIRST COST REPORTING PERIOD.**

(a) IN GENERAL.—Section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) is amended—

(1) in paragraph (3)(B)(i), by striking ''minus 1 percentage point''; and

(2) in paragraph (4)(B), by striking ''reduced (on an annualized basis) by 1 percentage point''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services provided on or after October 1, 1999.

Mr. DOMENICI. Mr. President, I rise today to join with Senator HATCH in introducing the ''Medicare Beneficiary Access to Quality Nursing Home Care Act of 1999.''

I am convinced that this bill is urgently needed to assure our senior citizens have access to quality nursing home care through the Medicare program.

We can all take a certain amount of pride in the bipartisan Balanced Budget Act of 1997, which contained the most sweeping reforms for Medicare since the program was enacted in 1965. These reforms have extended the solvency of the program to 2015 and brought new health coverage options to seniors throughout the country.

However, it should come as no surprise that legislation as complex as the Balanced Budget Act (BBA), as well as its implementation by the Health Care Financing Administration, has produced some unintended consequences that need to be corrected.

That is exactly the situation in the case of nursing homes. The transition to the Prospective Payment System (PPS) for Skilled Nursing Facilities (SNFs) that was contained in the BBA is seriously threatening access to needed care for seniors all across the country.

In May, 63 Senators joined with me in sending a bipartisan appeal to the Secretary of Health and Human Services urging her to address the growing crisis in the nursing home industry through administrative action. To date, we have received no direct response from the Secretary on this matter, nor has the Health Care Financing Administration (HCFA) shown any willingness to address the problem.

With time quickly running out on many nursing home operators, I believe Congress must act before it is too late to assure our seniors will continue to have access to quality nursing home care.

Let me note that Congress is not alone in believing there is a problem here. Dr. Gail Wilensky, the Chair of the Medicare Payment Advisory Commission, recently testified before the Senate Finance Committee that some Medicare patients are having difficulty accessing care in skilled nursing facilities. Dr. Wilensky went on to say that the current reimbursement system adopted by HCFA does not adequately account for patients requiring high levels of nontherapy ancillary services and supplies.

In New Mexico, there are currently 81 nursing homes in the state serving about 6,000 patients, and I am convinced that the current Medicare payment system, as implemented by HCFA, simply does not provide enough funds to cover the costs being incurred by these facilities when they care for our senior citizens.

For rural states like New Mexico, corrective action is critically important. Many communities in my state are served by a single facility that is the only provider for many miles. If such a facility were to close, patients in that home would be forced to move to facilities much farther away from their families. Moreover, nursing homes in smaller, rural communities often operate on a razor thin bottom line, and, for them, the reductions in Medicare reimbursements have been especially devastating.

The legislation we are introducing today would go a long way toward restoring stability in the nursing home industry. It would increase reimbursement rates through two provisions.

First, a 2-year period, the bill modestly increases payments for 15 high acuity conditions, like cancer, hip fracture, and stroke. At the end of 2 years, HCFA expects that they will have the data to more properly reflect the high costs of these cases in the payment system.

Second, the bill eliminates the one percentage point reduction in the annual inflation update for all reimbursement rates for skilled nursing facilities.

I look forward to working with Senator HATCH and the other cosponsors of this bill in pushing for passage of this critical legislation when we return in September.

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By Mr. MCCAIN:

S. 1501. A bill to improve motor carrier safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999

• Mr. MCCAIN. I am pleased to introduce the Motor Carrier Safety Improvement Act of 1999. This measure is designed to remedy certain weaknesses regarding the Federal motor carrier safety program as identified by the Department of Transportation's Inspector General (DOT IG) in April 1999. The Motor Carrier Safety Improvement Act also contains several new initiatives intended to advance safety on our nation's roads and highways.

The bill would establish a separate Motor Carrier Safety Administration within the DOT. That agency would be responsible for carrying out the Federal motor carrier safety enforcement and regulatory responsibilities currently held by the Federal Highway Administration. It would be headed by an Administrator, appointed by the President and confirmed by the Senate.

To guard against increasing the already bloated Federal bureaucracy, the bill would cap employment and funding at the levels currently endorsed by the Administration for motor carrier safety activities. This legislation also recognizes the significant differences between truck operations and passenger carrying operations and accordingly, would call for a separate division within the new agency to ensure commercial bus safety.

Aside from organizational issues, the Motor Carrier Safety Improvement Act would require the Department to implement all the IG's recently issued truck safety recommendations. DOT has indicated it will act on some of the recommendations, but it has failed to articulate a definitive action plan to implement all of the IG's recommendations. We should not risk the consequences of ignoring the IG's recommendations and this bill would require action to eliminate the identified safety gaps at DOT. In addition, it would authorize additional funding as requested by the Administration to address safety shortcomings. It also includes a number of items to address truck safety and enforcement, including provisions to strengthen the Commercial Drivers License Program, to improve data collection activities and to promote the accurate exchange of driver information among the states.

I want to take a moment to share with my colleagues how I reached the decision to develop this measure.

In the last Congress, a comprehensive package of motor carrier and highway safety provisions was enacted as part the Transportation Equity Act for the 21st Century (TEA–21). This package was developed over a two-year period. Throughout the 105th Congress, the primary impediment faced by the Committee on Commerce, Science, and Transportation when crafting our highway safety legislation was an insufficient allocation of contract authority from the highway trust fund. Despite this serious constraint, the Committee did succeed in raising the authorizations for motor carrier and highway safety programs. At the same time, the Committee also succeeded in incorporating into TEA–21 almost every safety initiative brought to the Committee's attention.

Several months after TEA–21 was signed into law, I asked the IG to assess a proposal to move the then Office of Motor Carriers (OMC) form the Federal Highway Administration (FHWA) to the National Highway Traffic Safety Administration (NHTSA). The proposal was being advanced by the Chairman of the House Appropriations Subcommittee on Transportation who was, and is, concerned about OMC's effectiveness in overseeing the safety of our nation's truck and bus industries, concerns I share overall.

The proposal, originally contained in an appropriations bill, was eliminated when it was brought to the House Floor. Consequently, I was surprised to learn of its resurrection as a line item in early drafts of the conference report on the Omnibus Appropriations Act for fiscal year 1999. I remind my colleagues that the transfer had never been included in any House or Senate-passed legislation, nor had any of the authorizing Committees of jurisdiction ever been asked to consider it at all in the 105th Congress.

Rather than enact measures that have surface appeal, it is the responsibility of the Congress to ascertain whether the proposals would be effective. I felt it very important that we first determine whether NHTSA was the most appropriate entity to oversee truck safety before requiring it to take on such critical yet unfamiliar responsibilities. That is why I asked for the IG's counsel.

I chaired a hearing in April at which the IG released his report and offered several ways to improve motor carrier safety. The IG's report does not endorse transferring the responsibilities to NHTSA. While this and several options were discussed, the IG stressed that the greatest problem impeding the effectiveness of the Office of Motor Carriers was a fundamental lack of leadership as currently structured. I repeat, the IG found that leadership was the greatest gap hindering truck safety advancements.

One way to raise the visibility of truck safety and bring leadership to motor carrier safety issues is to create an entity that has motor carrier safety as its sole purpose. Given that we have agencies responsible for air, rail, and highway safety, it seems within reason to provide similar treatment in this modal area, particularly given the many identified problems stemming from a lack of attention within its current structure.

Further, creating a direct link with the Office of the Secretary would guarantee that motor carrier safety share holders, including owners, operators, drivers, safety advocates and even government employees, would not be forced to vie for an agency's attention, forced to compete against highway construction and other interests as is currently the case. As we have regrettably learned, the scales of safety and highway construction are not balanced and we need to take action to alter this inequity.

Other legislative proposals have been offered in recent days. I assure my colleagues that I am willing to review those measures and listen to other suggestions to improve this legislation.

In the many meetings and hearings that have been held to discuss options to enhance highway safety, it became very clear that all motor carrier stake holders share a common goal. We want to improve truck and bus safety, decrease highway accidents, and reduce accident fatalities. I look forward to working with my colleagues, the Administration, highway safety groups, safety enforcement officials, and truck and motor coach representatives to achieve a realistic and effective safety bill. To attempt to do less would be an abrogation of our responsibility.•

By Mr. REED:

S. 1502. A bill to amend the Federal Election Campaign Act of 1971 to require mandatory spending limits for Senate candidates and limits on independent expenditures, to ban soft money, and for other purposes; to the Committee on Rules and Administration.

THE CAMPAIGN SPENDING CONTROL ACT OF 1999

Mr. REED. Mr. President, I rise today to discuss legislation I am introducing, the Campaign Spending Control Act of 1999. I introduced similar legislation in 1997. Unfortunately, in the last two years we have only seen the financial excesses of our campaign system grow, further disenfranchising and disillusioning voters. If our government is to regain the confidence and participation of the electorate, enactment of this legislation is more necessary today than it was two years ago.

Mr. President, two independent public policy groups recently released surveys gauging the public's opinion of their federal government. The news, once again, was not good for our democracy.

Earlier this month the Council for Excellence in Government released a nonpartisan poll, conducted by respected pollsters Peter Hart and Robert Teeter, which demonstrated that less than four in ten Americans now believe that President Lincoln's refrain, that our government is ''of, by, and for the people'' is accurate. While past disillusionment with government was directed at so-called ''unaccountable bureaucrats,'' today most Americans blame the moneyed special interests and the politicians and their political parties for the fact that government is not accountable to the average citizen. Patricia McGinnis, the Council's President, characterized the poll as demonstrating that ''we have an anemic democracy, badly in need of involvement and ownership by its citizens.''

Back in January of this year the Center on Policy Attitudes, released a nonpartisan poll which showed continued record high public dissatisfaction with government. This finding is disconcerting given that our nation is experiencing an unprecedented economic boom coupled with military security. Nonetheless, the Center's study showed that less than one in three Americans ''trust the government in Washington to do what is right'' most of the time. The study concludes that ''[t]he public's dissatisfaction with the US government is largely due to the perception that elected officials, acting in their self-interest, give priority to special interests and partisan agendas, over the interests of the public as a whole.'' Specifically, the survey found that three in four Americans believe that the government is ''run for the benefit of a few big interests.''

Mr. President, I believe that the biggest culprit fueling the public perception that politicians, political parties, and representational government is beholden to special interests, not the needs of the average citizen, is our campaign financing system. When politicians depend upon wealthy special interests, which represent less than one percent of the citizenry, for the political contributions that fuel campaigns the public is left to conclude that its voice will not, cannot, be heard, never mind addressed.

The 1996 elections produced record spending: over 2.7 billion dollars, or approximately 28 dollars per voter. All this money produced record-low voter participation. These two tragic facts are inextricably linked. Most Americans believe our current campaign system is tainted by a flood of special interest money, drowning out their voice, making their participation meaningless, and leaving their concerns unaddressed.

Mr. President, unfortunately, the excesses of 1996 were only multiplied in 1998. Funded by unregulated, unlimited ''soft money'' contributions, the use of unaccountable ''issue ads'' tripled. Without the ability to check either the facts or the sponsors of these ads, Americans became more cynical and less likely to participate. Candidates, on the other hand, are forced to raise money to not only match the resources and the advertising, of their opponent, but also outside groups that are running ''issue ads.''

Those challenging sitting Members of Congress are most disadvantaged by our financing system: in 1998 almost half of the House of Representatives faced opponents with little or no funding. The money chase saps a candidate's time, limiting the ability and incentive to debate, attend forums, and otherwise engage voters. Even the donors dislike the current system: with many corporate leaders announcing their opposition to, and unwillingness to participate in, the current system. We are trapped in a system that no one, not the voters, not the candidates, not the donors, thinks proper.

The roots of this abysmal situation can be traced to a misguided Supreme Court decision. In Buckley v. Valeo, a 1976 case which challenged the 1974 campaign reform legislation, the Court held that, in order to avoid corruption, or its appearance, political contributions could be limited. However, the Court invalidated campaign expenditure limits. The Court surmised that, given the contribution limit reforms, expenditure limits were not only unnecessary but would stifle unlimited and in-depth debate stimulated by greater campaign spending. This conjecture has been proven absolutely false by over twenty years of practical experience.

The single most important step to reform elections and revitalize our democracy is to reverse the Buckley decision by limiting the amount of money that a candidate or his allies can spend.

For this reason Senator JOHNSON and I are introducing legislation which directly challenges the Buckley decision and places mandatory limits on all campaign expenditures. These limits do not favor incumbents. Historically, these limits would have restricted almost four out of five incumbents, while impacting only a handful of challengers. Additionally, this legislation would fully ban corporate contributions, as well as unlimited and unregulated contributions by wealthy individuals and organizations. Further, our bill would limit campaign expenditures by supposedly, neutral, independent groups, and restrict corporations, labor unions, and other organizations from influencing campaigns under the guise of issue advocacy. The end result of this legislation would be to eliminate over a half-billion dollars from the system, encourage challenges to incumbents, and further promote debate among both candidates and the electorate.

What effect would these limits have on political debate? Contrary to the Supreme Court, I believe such limits would increase dialogue. Candidates would be free from the burdens of unending fundraising and thus be available to participate in debates, forums, and interviews. With greater access to candidates and less reason to believe that candidates were captives of their contributors, voters might well be more prepared to invest the time needed to be informed on issues of concern and ask candidates to address them.

Some of the most extreme defenders of our current campaign financing system will argue that this legislation impinges upon freedom of speech. In analyzing this criticism it is important to remember that the vast majority of Americans, ninety-six percent, have never made a political contribution. The bill will marginally restrict the rights of a few to contribute and spend money—not speak—so that the majority of voters might restore their faith in the process. Campaign finances will be restricted no more than necessary to fulfill several compelling interests, the most important of which is the people's faith in their government. Such a restriction conforms with Constitutional jurisprudence and has been demonstrated as necessary by history. The fact is all democratic debates are restricted by rules. My legislation would simply reinstall some rules into our political campaigns while directly impacting very few Americans.

Another criticism of this bill will be that it goes too far. Many reform proponents argue that we should concentrate on more modest gains. It is irrefutable that today, Congress struggles to consider even the most modest of reforms, such as banning so called soft money: unlimited donations by corporations, labor unions, and wealthy individuals to political party committees. Unfortunately the debate in Congress has regressed terribly from the original McCain-Feingold bill,

which addressed runaway campaign expenditures with voluntary spending limits. Yet, there are also reasons to be optimistic about implementation of substantial campaign reform.

Reform has broad public support and has grown into a major grass-roots initiative outside of Washington, DC. Elected officials from thirty-three states have urged that the Buckley decision be revisited and limits implemented. Legislative bodies in Ohio and Vermont have implemented sweeping reform by enacting mandatory caps on candidate expenditures. Other states, such as my own, have embraced public financing as a more modest, but significant, means of reform. On election day in 1998 voters in Arizona and Massachusetts approved significant reforms, both of which would ban so called ''soft money'' as well as encourage contribution and spending limits through voluntary public financing. Currently, campaign finance reform is enacted or being pursued in more than forty states. While significant reform may be a major step for Congress; our constituents and their state and local representatives are implementing important reform throughout the nation.

Unfortunately, because of the overly restrictive and confused jurisprudence flowing from the Buckley decision, many of these popular initiatives face years of special interest challenge in court. Indeed, the most effective reforms will, most likely, be struck down by trial courts. While I enthusiastically support any substantive reform, if we are to address the underlying cancer which has disintegrated voter trust and participation, the problem of unlimited expenditures must be directly confronted. As I have already stated, this is a step that one municipality and two states have embraced. Many more state officials as well as prominent constitutional law scholars have urged such a course. Expenditure limitations have been proposed by Congressional reformers in the past, and it is time to rededicate ourselves to this goal. The largest impediment to such reform is the Supreme Court, and I believe that there is, again, reason to be optimistic that the Court will accommodate such reform in the near future.

Currently, the Court has before it a case which challenges the Buckley decision. In Buckley, the Court upheld against First Amendment challenge the $1,000 federal contribution limit passed by Congress. In Shrink Missouri Government PAC v. Adams, the case currently under review by the Supreme Court, the Eighth Circuit struck down as unconstitutional Missouri's virtually identical state-wide contribution limit of $1,075, holding that only proof of corruption can justify contribution limits. I have led several members of Congress in an amicus brief to the Court.

Mr. President, our brief makes two arguments. First, it demonstrates that the Eighth Circuit's decision is inconsistent with the Supreme Court's decision in Buckley and should be reversed on that ground alone. Second, it contends that the Court should give legislatures the leeway to pass reforms that will respond meaningfully to the erosion of public confidence in the government created by the current campaign financing system.

This leeway can be provided in two ways. First, the Court should review campaign finance reforms under a deferential standard of review—''intermediate'' scrutiny rather than ''strict'' scrutiny—as long as the legislature does not justify the reforms on the communicative impact of the speech at issue. Second, the Court should recognize the institutional competence uniquely possessed by legislatures both to identify threats to the integrity of the electoral system and to implement corresponding reforms.

The amicus brief does not advocate any particular type of reform, but rather urges the Court to provide leeway for legislatures to enact necessary reforms. It is my hope that this case, while not changing the fundamental holding of Buckley, will stimulate the Court to provide greater deference to legislatures that seek to address the threat that campaign financing, and the cynicism it creates, poses to our democracy.

Once such leeway has been provided, the Court will be forced to revisit its holding that spending money is the functional equivalent to speaking. Experience since this 1976 decision should force the Court to realize that while money fuels speech, at some point, financial expenditures only increase a speaker's volume. Spending has now reached a shrill pitch that the vast majority of Americans want addressed. Elected representatives in thirty three states and countless grassroots officials agree with this sentiment. The legislation I have introduced today will implement such reform, restoring rules to our political debate, encouraging public participation, and thus stimulating faith in our democracy. I thank Senator JOHNSON for his support in this endeavor.

Mr. President, I would ask that a copy of this bill be printed in the RECORD.

The bill follows:

S. 1502

*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 ''Campaign Spending Control 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. Statement of purpose.
Sec. 3. Findings of fact.

TITLE I—SENATE ELECTION SPENDING LIMITS

Sec. 101. Senate election spending limits.

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TITLE V—SEVERABILITY; REGULATIONS; EFFECTIVE DATE

Sec. 501. Severability.
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**SEC. 2. STATEMENT OF PURPOSE.**

The purposes of this Act are to—

(1) restore the public confidence in and the integrity of our democratic system;

(2) strengthen and promote full and free discussion and debate during election campaigns;

(3) relieve Federal officeholders from limitations on their attention to the affairs of the Federal government that can arise from excessive attention to fundraising;

(4) relieve elective office-seekers and officeholders from the limitations on purposeful political conduct and discourse that can arise from excessive attention to fundraising;

(5) reduce corruption and undue influence, or the appearance thereof, in the financing of Federal election campaigns; and

(6) provide non-preferential terms of access to elected Federal officeholders by all interested members of the public in order to uphold the constitutionally guaranteed right to petition the Government for redress of grievances.

**SEC. 3. FINDINGS OF FACT.**

Congress finds the following:

(1) The current Federal campaign finance system, with its perceived preferential access to lawmakers for interest groups capable of contributing sizable sums of money to lawmakers' campaigns, has caused a widespread loss of public confidence in the fairness and responsiveness of elective government and undermined the belief, necessary to a functioning democracy, that the Government exists to serve the needs of all people.

(2) The United States Supreme Court, in Buckley v. Valeo, 424 U.S. 1 (1976), disapproved the use of mandatory spending limits as a remedy for such effects, while approving the use of campaign contribution limits.

(3) Since 1976, campaign expenditures have risen steeply in Federal elections with spending by successful candidates for the United States Senate between 1976 and 1996 rising from $609,100 to $3,775,000, an increase that is twice the rate of inflation.

(4) As campaign spending has escalated, voter turnout has steadily declined and in 1996 voter turnout fell to its lowest point since 1924, and stands now at the lowest level of any democracy in the world.

(5) Coupled with out-of-control campaign spending has come the constant necessity of

fundraising, arising, to a large extent, from candidates adopting a defensive ''arms race'' posture of constant readiness against the risk of massively financed attacks against whatever the opposing candidate may say or do.

(6) The current campaign finance system has had a deleterious effect on those who hold public office as endless fundraising pressures intrude upon the performance of constitutionally required duties. Capable and dedicated officials have left office in dismay over these distractions and the negative public perceptions that the fundraising process engenders and numerous qualified citizens have declined to seek office because of the prospect of having to raise the extraordinary amounts of money needed in today's elections.

(7) The requirement for candidates to raise funds, the average 1996 expenditure level required a successful Senate candidate to raise more than $12,099 a week for 6 years, significantly impedes on the ability of Senators and other officeholders to tend to their official duties, and limits the ability of candidates to interact with the electorate while also tending to professional responsibilities.

(8) As talented incumbent and potential public servants are deterred from seeking office in Congress because of such fundraising pressures, the quality of representation suffers and those who do serve are impeded in their effort to devote full attention to matters of the Government by the campaign financing system.

(9) Contribution limits are inadequate to control all of these trends and as long as campaign spending is effectively unrestrained, supporters can find ways to protect their favored candidates from being outspent. Since 1976, major techniques have been found and exploited to get around and evade contribution limits.

(10) Techniques to evade contribution limits include personal spending by wealthy candidates, independent expenditures that assist or attack an identified candidate, media campaigns by corporations, labor unions, and nonprofit organizations to advocate the election or defeat of candidates, and the use of national, State, or local political parties as a conduit for money that assists or attacks such candidates.

(11) Wealthy candidates may, under the present Federal campaign financing system, spend any amount they want out of their own resources and while such spending may not be self-corrupting, it introduces the very defects the Supreme Court wanted to avoid. The effectively limitless character of such resources obliges a wealthy candidate's opponent to reach for larger amounts of outside support, causing the deleterious effects previously described.

(12) Experience shows that there is an identity of interest between candidates and political parties because the parties exist to support candidates, not the other way around. Party expenditures in support of, or in opposition to, an identifiable candidate are, therefore, effectively spending on behalf of a candidate.

(13) Political experience shows that so-called ''independent'' support, whether by individuals, committees, or other entities, can be and often is coordinated with a candidate's campaign by means of tacit understandings without losing its nominally independent character and, similarly, contributions to a political party, ostensibly for ''party-building'' purposes, can be and often are routed, by undeclared design, to the support of identified candidates.

(14) The actual, case-by-case detection of coordination between candidate, party, and independent contributor is, as a practical matter, impossible in a fast-moving campaign environment.

(15) So-called ''issue advocacy'' communications, by or through political parties or independent contributors, need not advocate expressly for the election or defeat of a named candidate in order to cross the line into election campaign advocacy; any clear, objective indication of purpose, such that voters may readily observe where their electoral support is invited, can suffice as evidence of intent to impact a Federal election campaign.

(16) When State political parties or other entities operating under State law receive funds, often called ''soft money'', for use in Federal elections, they become de facto agents of the national political party and the inclusion of these funds under applicable Federal limitations is necessary and proper for the effective regulation of Federal election campaigns.

(17) The exorbitant level of money in the political system has served to distort our democracy by giving some contributors, who constitute less than 3 percent of the citizenry, the appearance of favored access to elected officials, thus undermining the ability of ordinary citizens to petition their Government. Concerns over the potential for corruption and undue influence, and the appearances thereof, has left citizens cynical, the reputation of elected officials tarnished, and the moral authority of Government weakened.

(18) The 2 decades of experience since the ruling of the Supreme Court in Buckley v. Valeo in 1976 have made it evident that reasonable limits on election campaign expenditures are now necessary and these limits must comprehensively address all types of expenditures to prevent circumvention of such limits.

(19) The Supreme Court based its Buckley v. Valeo decision on a concern that spending limits could narrow political speech ''by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached''. The experience of the past 20 years has been otherwise as experience shows that unlimited expenditures can drown out or distort political discourse in a flood of distractive repetition. Reasonable spending limits will increase the opportunity for previously muted voices to be heard and thereby increase the number, depth, and diversity of ideas presented to the public.

(20) Issue advocacy communications that do not promote or oppose an identified candidate should remain unregulated, as should the traditional freedom of the press to report and editorialize about candidates and campaigns.

(21) In establishing reasonable limits on campaign spending, it is necessary that the limits reflect the realities of modern campaigning in a large, diverse population with sophisticated and expensive modes of communication. The limits must allow citizens to benefit from a full and free debate of issues and permit candidates to garner the resources necessary to engage in that debate.

(22) The expenditure limits established in this Act for election to the United States Senate were determined after careful review of historical spending patterns in Senate campaigns as well as the particular spending level of the 3 most recent elections as evidenced by the following:

(A) The limit formula allows a candidate a level of spending which guarantees an ability to disseminate the candidate's message by accounting for the size of the population in each State as well as historical spending trends including the demonstrated trend of lower campaign spending per voter in larger States as compared to voter spending in smaller States.

(B) The candidate expenditure limits included in this legislation would have restricted 80 percent of the incumbent candidates in the last 3 elections, while only impeding 18 percent of the challengers.

(C) It is clear from recent experience that expenditure limits as set by the formula in this Act will be high enough to allow an effective level of competition, encourage candidate dialogue with constituents, and circumscribe the most egregiously high spending levels, so as to be a bulwark against future campaign finance excesses and the resulting voter disenfranchisement.

## TITLE I—SENATE ELECTION SPENDING LIMITS

### SEC. 101. SENATE ELECTION SPENDING LIMITS.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

### ''SEC. 324. SPENDING LIMITS FOR SENATE ELECTION CAMPAIGNS

''(a) IN GENERAL.—The amount of funds expended by a candidate for election, or nomination for election, to the Senate and the candidate's authorized committee with respect to an election shall not exceed the election expenditure limits described in subsections (b), (c), and (d).

''(b) PRIMARY ELECTION EXPENDITURE LIMIT.—The aggregate amount of expenditures made in connection with a primary election by a Senate candidate and the candidate's authorized committee shall not exceed 67 percent of the general election expenditure limit under subsection (d).

''(c) RUNOFF ELECTION EXPENDITURE LIMIT.—The aggregate amount of expenditures made in connection with a runoff election by a Senate candidate and the candidate's authorized committee shall not exceed 20 percent of the general election expenditure limit under subsection (d).

''(d) GENERAL ELECTION EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The aggregate amount of expenditures made in connection with a general election by a Senate candidate and the candidate's authorized committee shall not exceed the greater of—

''(A) $1,182,500; or

''(B) $500,000; plus

''(i) 37.5 cents multiplied by the voting age population not in excess of 4,000,000; and

''(ii) 31.25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) EXCEPTION.—In the case of a Senate candidate in a State that has not more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B) shall be applied by substituting—

''(A) '$1.00' for '37.5 cents' in clause (i); and

''(B) '87.5 cents' for '31.25 cents' in clause (ii).

''(3) INDEXING.—The monetary amounts in paragraphs (1) and (2) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that the base period shall be calendar year 1999.

''(e) EXEMPTED EXPENDITURES.—In determining the amount of funds expended for purposes of this section, there shall be excluded any amounts expended for—

''(1) Federal, State, or local taxes with respect to earnings on contributions raised;

''(2) legal and accounting services provided solely in connection with complying with the requirements of this Act;

''(3) legal services related to a recount of the results of a Federal election or an election contest concerning a Federal election; or

''(4) payments made to or on behalf of an employee of a candidate's authorized committee for employee benefits—

''(A) including—

''(i) health care insurance;

''(ii) retirement plans; and

''(iii) unemployment insurance; but

''(B) not including salary, any form of compensation, or amounts intended to reimburse the employee.''.

## TITLE II—COORDINATED AND INDEPENDENT EXPENDITURES

**SEC. 201. ADDING DEFINITION OF COORDINATION TO DEFINITION OF CONTRIBUTION.**

(a) DEFINITION OF CONTRIBUTION.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''or'' at the end;

(B) in clause (ii) by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) a payment made for a communication or anything of value that is for the purpose of influencing an election for Federal office and that is a payment made in coordination with a candidate.''; and

(2) by adding at the end the following:

''(C) PAYMENT MADE IN COORDINATION WITH.—The term 'payment made in coordination with' means—

''(i) a payment made by any person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with, a candidate, a candidate's authorized committee, an agent acting on behalf of a candidate or a candidate's authorized committee, or (for purposes of paragraphs (9) and (10) of section 315(a)) another person;

''(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate or the candidate's authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat); or

''(iii) payments made based on information about the candidate's plans, projects, or needs provided to the person making the payment by the candidate, the candidate's authorized committee, or an agent of a candidate or a candidate's authorized committee.''.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 315.—Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended to read as follows:

''(B) expenditures made in coordination with a candidate (within the meaning of section 301(8)(C)) shall be considered to be contributions to the candidate and, in the case of limitations on expenditures, shall be treated as an expenditure for purposes of this section; and''.

(2) SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking ''shall include'' and inserting ''shall have the meaning given those terms in paragraphs (8) and (9) of section 301 and shall also include''.

**SEC. 202. TREATMENT OF CERTAIN COORDINATED CONTRIBUTIONS AND EXPENDITURES.**

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

''(9) For purposes of this section, contributions made by more than 1 person in coordination with each other (within the meaning of section 301(8)(C)) shall be considered to have been made by a single person.

''(10) For purposes of this section, an independent expenditure made by a person in coordination with (within the meaning of section 301(8)(C)) another person shall be considered to have been made by a single person.''.

**SEC. 203. POLITICAL PARTY COMMITTEES.**

(a) LIMIT ON COORDINATED AND INDEPENDENT EXPENDITURES BY POLITICAL PARTY COMMITTEES.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by inserting ''and independent expenditures'' after ''Federal office''; and

(2) in paragraph (3)—

(A) by inserting '', including expenditures made'' after ''make any expenditure''; and

(B) by inserting ''and independent expenditures advocating the election or defeat of a candidate,'' after ''such party''.

(b) RULES APPLICABLE WHEN LIMITS NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), during any period beginning after the effective date of this Act in which the limitation under section 315(d)(3) (as amended by subsection (a)) is not in effect the following amendments shall be effective:

(1) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY A POLITICAL PARTY COMMITTEE.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(A) in paragraph (1)—

(i) by striking ''(2) and (3) of this subsection'' and inserting ''(2), (3), and (4) of this subsection''; and

(ii) by inserting ''coordinated'' after ''make'';

(B) in paragraph (3), by inserting ''coordinated'' after ''make any''; and

(C) by adding at the end the following:

''(4) PROHIBITION AGAINST MAKING BOTH COORDINATED EXPENDITURES AND INDEPENDENT EXPENDITURES.—

''(A) IN GENERAL.—A committee of a political party shall not make both a coordinated expenditure in excess of $5,000 and an independent expenditure with respect to the same candidate during an election cycle.

''(B) CERTIFICATION.—Before making a coordinated expenditure in excess of $5,000 in connection with a general election campaign of a candidate, a committee of a political party that is subject to this subsection shall file with the Commission a certification, signed by the treasurer, stating that the committee will not make independent expenditures with respect to such candidate.

''(C) TRANSFERS.—A party committee that certifies under this paragraph that the committee will make coordinated expenditures with respect to any candidate shall not, in the same election cycle, make a transfer of funds to, or receive a transfer of funds from, any other party committee unless that committee has certified under this paragraph that it will only make coordinated expenditures with respect to candidates.

''(D) DEFINITION OF COORDINATED EXPENDITURE.—In this paragraph, the term 'coordinated expenditure' shall have the meaning given the term 'payments made in coordination with' in section 301(8)(C).''.

(2) LIMIT ON CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.—Section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended—

(A) in paragraph (1)(B), by striking ''which, in the aggregate, exceed $20,000'' and inserting ''that—

''(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $20,000; or

''(ii) in the case of a political committee not described in clause (i), in the aggregate, exceed $5,000''; and

(B) in paragraph (2)(B), by striking ''which, in the aggregate, exceed $15,000'' and inserting ''that—

''(i) in the case of a political committee that certifies under subsection (d)(4) that it will not make independent expenditures in connection with the general election campaign of any candidate, in the aggregate, exceed $15,000; or

''(ii) in the case of a political committee not described in clause (i), in the aggregate, exceed $5,000''.

(c) DEFINITION OF ELECTION CYCLE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) ELECTION CYCLE.—The term 'election cycle' means—

''(A) in the case of a candidate or the authorized committee of a candidate, the period beginning on the day after the date of the most recent general election for the specific office or seat that the candidate is seeking and ending on the date of the next general election for that office or seat; and

''(B) in the case of all other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next general election.''.

**SEC. 204. LIMIT ON INDEPENDENT EXPENDITURES.**

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following:

''(i) LIMIT ON INDEPENDENT EXPENDITURES.—No person shall make independent expenditures advocating the election or defeat of a candidate during an election cycle in an aggregate amount greater than the limit applicable to the candidate under subsection (d)(3).''.

(b) RULES APPLICABLE WHEN RULES IN SUBSECTION (a) NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date of this Act in which the limit on independent expenditures under section 315(i) of the Federal Election Campaign Act of 1971, as added by subsection (a), is not in effect, section 324 of such Act, as added by section 101(a), is amended by adding at the end the following:

''(f) INCREASE IN EXPENDITURE LIMIT IN RESPONSE TO INDEPENDENT EXPENDITURES.—

''(1) IN GENERAL.—The applicable election expenditure limit for a candidate shall be increased by the aggregate amount of independent expenditures made in excess of the limit applicable to the candidate under section 315(d)(3)—

''(A) on behalf of an opponent of the candidate; or

''(B) in opposition to the candidate.

''(2) NOTIFICATION.—

''(A) IN GENERAL.—A candidate shall notify the Commission of an intent to increase an expenditure limit under paragraph (1).

''(B) COMMISSION RESPONSE.—Within 3 business days of receiving a notice under subparagraph (A), the Commission must approve or deny the increase in expenditure limit.

''(C) ADDITIONAL NOTIFICATION.—A candidate who has increased an expenditure limit under paragraph (1) shall notify the Commission of each additional increase in increments of $50,000.''.

**SEC. 205. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.**

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

''(17) INDEPENDENT EXPENDITURE.—The term 'independent expenditure' means an expenditure that—

(A) contains express advocacy; and

(B) is made without the participation or cooperation of, or without consultation with, or without coordination with a candidate or a candidate's authorized committee or agent (within the meaning of section 301(8)(C)).''.

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 202(c), is amended by adding at the end the following:

''(21) EXPRESS ADVOCACY.—The term 'express advocacy' includes—

''(i) a communication that conveys a message that advocates the election or defeat of a clearly identified candidate for Federal office by using an expression such as 'vote for,' 'elect,' 'support,' 'vote against,' 'defeat,' 'reject,' '(name of candidate) for Congress,' 'vote pro-life,' or 'vote pro-choice,' accompanied by a listing or picture of a clearly identified candidate described as 'pro-life' or 'pro-choice,' 'reject the incumbent,' or an expression susceptible to no other reasonable interpretation but an unmistakable and unambiguous exhortation to vote for or against a specific candidate; or

''(ii) a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising—

''(A) that is made on or after a date that is 90 days before the date of a general election of the candidate;

''(B) that refers to the character, qualifications, or accomplishments of a clearly identified candidate, group of candidates, or candidate of a clearly identified political party; and

''(C) that does not have as its sole purpose an attempt to urge action on legislation that has been introduced in or is being considered by a legislature that is in session.''.

**SEC. 206. ELIMINATION OF LEADERSHIP PACS.**

(a) DESIGNATION AND ESTABLISHMENT OF AUTHORIZED COMMITTEE.—Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by—

(1) striking paragraph (3) and inserting the following:

''(3) No political committee that supports, or has supported, more than one candidate may be designated as an authorized committee, except that—

''(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

''(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.''; and

(2) adding at the end the following:

''(6)(A) A candidate for Federal office or any individual holding Federal office may not directly or indirectly establish, finance, maintain, or control any political committee other than a principal campaign committee of the candidate, designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office. This paragraph shall not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to such State or local office.

''(B) A political committee prohibited by subparagraph (A), that is established before the date of enactment of this paragraph, may continue to make contributions for a period that ends on the date that is 1 year after the date of enactment of this paragraph. At the end of such period the political committee shall disburse all funds by 1 or more of the following means:

''(1) Making contributions to an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Act that is not established, maintained, financed, or controlled directly or indirectly by any candidate for Federal office or any individual holding Federal office.

''(2) Making a contribution to the Treasury.

''(3) Making contributions to the national, State, or local committees of a political party.

''(4) Making contributions not to exceed $1,000 to candidates for elective office.''.

## TITLE III—SOFT MONEY

**SEC. 301. SOFT MONEY OF POLITICAL PARTY COMMITTEE.**

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101(a), is amended by adding at the end the following:

**''SEC. 325. SOFT MONEY OF PARTY COMMITTEES.**

''(a) NATIONAL COMMITTEES.—A national committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee or its agent, an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity (but not including an entity regulated under subsection (b)) shall not solicit or receive any contributions, donations, or transfers of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) IN GENERAL.—Any amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of any such committee or entity) during a calendar year in which a Federal election is held, for any activity that might affect the outcome of a Federal election, including any voter registration or get-out-the-vote activity, any generic campaign activity, and any communication that refers to a candidate (regardless of whether a candidate for State or local office is also mentioned or identified) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) ACTIVITY EXCLUDED FROM PARAGRAPH (1).—

''(A) IN GENERAL.—Paragraph (1) shall not apply to an expenditure or disbursement made by a State, district, or local committee of a political party for—

''(i) a contribution to a candidate for State or local office if the contribution is not designated or otherwise earmarked to pay for an activity described in paragraph (1);

''(ii) the costs of a State, district, or local political convention;

''(iii) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of any individual who spends more than 20 percent of such individual's time on activity during the month that may affect the outcome of a Federal election) except that for purposes of this clause, the non-Federal share of a party committee's administrative and overhead expenses shall be determined by applying the ratio of the non-Federal disbursements to the total Federal expenditures and non-Federal disbursements made by the committee during the previous presidential election year to the committee's administrative and overhead expenses in the election year in question;

''(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office; and

''(v) the cost of any campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, if the candidate activity is not an activity described in paragraph (1).

''(B) FUNDRAISING COSTS.—Any amount spent by a national, State, district, or local committee, by an entity that is established, financed, maintained, or controlled by a State, district, or local committee of a political party, or by an agent or officer of any such committee or entity to raise funds that are used, in whole or in part, to pay the costs of an activity described in paragraph (1) shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(c) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for or make any donations to an organization that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986.

''(d) CANDIDATES.—

''(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not—

''(A) solicit, receive, transfer, or spend funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act;

''(B) solicit, receive, or transfer funds that are to be expended in connection with any election other than a Federal election unless the funds—

''(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a); and

''(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office; or

''(C) solicit, receive, or transfer any funds on behalf of any person that are not subject to the limitations, prohibitions, and reporting requirements of the Act if the funds are for use in financing any campaign-related activity or any communication that refers to a clearly identified candidate.

''(2) EXCEPTION.—Paragraph (1) shall not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for the individual's State or local campaign committee.''.

**SEC. 302. STATE PARTY GRASSROOTS FUNDS.**

(a) INDIVIDUAL CONTRIBUTIONS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by inserting after subparagraph (C) the following:

''(D) to—

''(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; or

''(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000;

except that the aggregate contributions described in this subparagraph that may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000.''.

(b) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1970 (2 U.S.C. 431), as amended by section 205(b), is amended by adding at the end the following:

''(22) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means a campaign activity that promotes a political party and does not refer to any particular candidate for a Federal, State, or local office.

''(23) STATE PARTY GRASSROOTS FUND.—The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 326(d).''.

(c) STATE PARTY GRASSROOTS FUNDS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is amended by adding at the end the following:

**''SEC. 326. STATE PARTY GRASSROOTS FUNDS.**

''(a) DEFINITION.—In this section, the term 'State or local candidate committee' means a committee established, financed, maintained, or controlled by a candidate for other than Federal office.

''(b) TRANSFERS.—Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if the district or local committee—

''(1) has established a separate segregated fund; and

''(2) uses the transferred funds solely for disbursements and expenditures under subsection (d).

''(c) AMOUNTS RECEIVED BY GRASSROOTS FUNDS FROM STATE AND LOCAL CANDIDATE COMMITTEES.—

''(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (d) that are for the benefit of the candidate for whom such Fund is established shall be treated as meeting the requirements of section 325(b)(1) and section 304(e) if—

''(A) the amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in paragraphs (1)(A) and (2)(A) of section 315(a); and

''(B) the State or local candidate committee—

''(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

''(ii) certifies that the requirements were met.

''(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in such paragraph—

''(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee; and

''(B) the committee must be able to demonstrate that the cash on hand of such committee contains funds meeting those requirements sufficient to cover the transferred funds.

''(3) REPORTING.—Notwithstanding paragraph (1), any State Party Grassroots Fund that receives a transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from the candidate committee.

''(d) DISBURSEMENTS AND EXPENDITURES.—A State committee of a political party shall only make disbursements and expenditures from the State Party Grassroots Fund of such committee for—

''(1) any generic campaign activity;

''(2) payments described in clauses (v), (ix), and (xi) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

''(3) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

''(4) voter registration; and

''(5) development and maintenance of voter files during any even-numbered calendar year.''.

**SEC. 303. REPORTING REQUIREMENTS.**

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

''(e) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

''(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 325 APPLIES.—A political committee (not described in paragraph (1)) to which section 325(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (1) and (2)(iii) of section 325(b).

''(3) OTHER POLITICAL COMMITTEES.—Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

''(4) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

''(5) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following:

''(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.''.

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(A) by striking ''and'' at the end of subparagraph (H);

(B) by inserting ''and'' at the end of subparagraph (I); and

(C) by adding at the end the following new subparagraph:

''(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;''.

(2) NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by inserting '', and the election to which the operating expenditure relates'' after ''operating expenditure''.

**SEC. 304. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.**

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by subsection 303, is amended by adding at the end the following:

''(g) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

''(1) IN GENERAL.—A person other than a committee of a political party that makes aggregate disbursements totaling in excess of $10,000 with respect to an election cycle for activities described in paragraph (2) shall file a statement with the Commission—

''(A) within 48 hours after the disbursements are made; or

''(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

''(2) ACTIVITY.—The activity described in this paragraph is—

''(A) any activity described in section 316(b)(2)(A) that refers to any candidate for Federal office, any political party, or any Federal election; and

''(B) any activity described in subparagraph (B) or (C) of section 316(b)(2).

''(3) ADDITIONAL STATEMENTS.—An additional statement shall be filed each time additional disbursements aggregating $10,000 are made by a person described in paragraph (1).

''(4) APPLICABILITY.—This subsection does not apply to—

''(A) a candidate or a candidate's authorized committee; or

''(B) an independent expenditure.

''(5) CONTENTS.—A statement under this section shall contain such information about the disbursements as the Commission shall prescribe, including—

''(A) the name and address of the person or entity to whom the disbursement was made;

''(B) the amount and purpose of the disbursement; and

''(C) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.''.

## TITLE IV—ENFORCEMENT

**SEC. 401. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.**

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended

by striking paragraph (11) and inserting the following:

''(11) FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.—

''(A) REQUIRED FILING.—The Commission may promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

''(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

''(ii) may maintain and file a designation, statement, or report in that manner if not required to do so under regulations prescribed under clause (i).

''(B) FACSIMILE MACHINE.—The Commission shall promulgate a regulation that allows a person to file a designation, statement, or report required by this Act through the use of facsimile machines.

''(C) VERIFICATION OF SIGNATURE.—

''(i) IN GENERAL.—In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying a designation, statement, or report covered by the regulations.

''(ii) TREATMENT OF VERIFICATION.—A document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.''.

**SEC. 402. AUDITS.**

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

(2) by adding at the end the following:

''(2) RANDOM AUDITS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act.

''(B) LIMITATION.—The Commission shall not institute an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in that election cycle.

''(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

**SEC. 403. AUTHORITY TO SEEK INJUNCTION.**

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

''(13) AUTHORITY TO SEEK INJUNCTION.—

''(A) IN GENERAL.—If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

''(i) there is a substantial likelihood that a violation of this Act is occurring or is about to occur;

''(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

''(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

''(iv) the public interest would be best served by the issuance of an injunction;

the Commission may initiate a civil action for a temporary restraining order or a preliminary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

''(B) VENUE.—An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found, or in which the violation is occurring, has occurred, or is about to occur.'';

(2) in paragraph (7), by striking ''(5) or (6)'' and inserting ''(5), (6), or (13)''; and

(3) in paragraph (11), by striking ''(6)'' and inserting ''(6) or (13)''.

**SEC. 404. INCREASE IN PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.**

Section 309(a)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(B)) is amended by striking ''the greater of $10,000 or an amount equal to 200 percent'' and inserting ''the greater of $15,000 or an amount equal to 300 percent''.

**SEC. 405. PROHIBITION OF CONTRIBUTIONS BY INDIVIDUALS NOT QUALIFIED TO VOTE.**

(a) PROHIBITION.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) in the heading by adding ''AND INDIVIDUALS NOT QUALIFIED TO REGISTER TO VOTE'' at the end; and

(2) in subsection (a)—

(A) by striking ''(a) It shall'' and inserting the following:

''(a) PROHIBITIONS.—

''(1) FOREIGN NATIONALS.—It shall''; and

(B) by adding at the end the following:

''(2) INDIVIDUALS NOT QUALIFIED TO VOTE.—It shall be unlawful for an individual who is not qualified to register to vote in a Federal election to make a contribution, or to promise expressly or impliedly to make a contribution, in connection with a Federal election; or for any person to knowingly solicit, accept, or receive a contribution in connection with a Federal election from an individual who is not qualified to register to vote in a Federal election.''.

(b) INCLUSION IN DEFINITION OF IDENTIFICATION.—Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and'' the first place it appears; and

(B) by inserting '', and an affirmation that the individual is an individual who is not prohibited by section 319 from making a contribution'' after ''employer''; and

(2) in subparagraph (B), by inserting ''and an affirmation that the person is a person that is not prohibited by section 319 from making a contribution'' after ''such person''.

**SEC. 406. USE OF CANDIDATES' NAMES.**

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not—

''(i) include the name of any candidate in its name, or

''(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

**SEC. 407. EXPEDITED PROCEDURES.**

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)), as amended by section 403, is amended by adding at the end the following:

''(14) EXPEDITED PROCEDURE.—

''(A) 60 DAYS PRECEDING AN ELECTION.—If the complaint in a proceeding is filed within 60 days immediately preceding a general election, the Commission may take action described in this paragraph.

''(B) RESOLUTION BEFORE ELECTION.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in clauses (ii), (iii), and (iv) of paragraph (13)(A) are met, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, immediately seek relief under paragraph (13)(A).

''(C) COMPLAINT WITHOUT MERIT.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.''.

**TITLE V—SEVERABILITY; REGULATIONS; EFFECTIVE DATE**

**SEC. 501. SEVERABILITY.**

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

**SEC. 502. REGULATIONS.**

The Federal Election Commission shall promulgate any regulations required to carry out this Act and the amendments made by this Act.

**SEC. 503. EFFECTIVE DATE.**

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date that is 30 days after the date of enactment of this Act.

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By Mr. THOMPSON (for himself and Mr. LIEBERMAN):

S. 1503. A bill amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government. Ethics through fiscal year 2003; to the Committee on Governmental Affairs

THE OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 1999

Mr. THOMPSON. Mr. President, I ask unanimous consent that a statement by Senator LIEBERMAN and myself regarding the ''Office of Government Ethics Authorization Act of 1999'' be printed in the RECORD.

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

JOINT STATEMENT BY SENATOR FRED THOMPSON, CHAIRMAN, COMMITTEE ON GOVERNMENTAL AFFAIRS, AND SENATOR JOSEPH LIEBERMAN, RANKING MINORITY MEMBER, COMMITTEE ON GOVERNMENTAL AFFAIRS, ON THE INTRODUCTION OF THE ''OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 1999''

Today we are pleased to join together in introducing the ''Office of Government Ethics Authorization Act of 1999.'' This legislation would reauthorize the Office of Government Ethics for four years, through the end of fiscal year 2003.

The Office of Government Ethics was created in 1978 to administer the Ethics in Government Act. The Office was established as a separate agency in the Executive branch, independent from the Office of Personnel Management, as part of the Office's reauthorization in 1988. The Office is headed by a Director who is appointed to serve a 5-year term with the advice and consent of the Senate. The current Director, Stephen Potts, is serving his second term which expires in August 2000.

The Office has responsibility for Executive branch policies relating to preventing conflicts of interest on the part of officers and employees in the Executive branch. The Office is a small and respected agency and promotes policies and ethical standards that are implemented by a network of more than 120 Designated Agency Ethics Officers. The Office also provides training and educational programs in an effort to provide guidance to employees throughout the government.

The Office's current authorization is set to expire at the end of this fiscal year. In introducing this legislation, it is our expectation for the Committee on Governmental Affairs and the Senate to act on a timely basis in reauthorizing this agency.

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By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1504. A bill to improve health care quality and reduce health care costs by establishing a National Fund for Health Research that would significantly expand the Nation's investment in medical research; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL FUND FOR HEALTH RESEARCH ACT

• Mr. HARKIN. Mr. President, I am pleased to introduce the ''National Fund for Health Research Act of 1999''. And I am particularly pleased to be joined in this effort by my friend and colleague, Senator SPECTER. This bill is similar to legislation I introduced with Senator SPECTER in the 105th Congress, and with Senator HATFIELD during the 104th Congress. The bill gained broad bipartisan support in both the House and Senate.

Our proposal would establish a National Fund for Health Research to provide additional resources for health research over and above those provided to the National Institutes of Health in the annual appropriations process. The Fund would greatly enhance the quality of health care by investing more in finding preventive measures, cures and cost-effective treatments for the major illnesses and conditions that strike Americans.

To finance the Fund, health plans would set aside approximately 1 percent of all health premiums and transfer the funds to the National Fund for Health Research.

Each year under our proposal amounts within the National Fund for Health Research would automatically be allocated to each of the NIH Institutes and Centers. Each Institute and Center would receive the same percentage as they received of the total NIH appropriation for that fiscal year. The set aside would result in a significant annual budget increase for NIH.

In 1994 I argued that any health care reform plan should include additional funding for health research. Systematic health care reform has been taken off the front burner but the need to increase our nation's commitment to health research has not diminished.

While health care spending devours over $1 trillion annually our medical research budget is dying of starvation. The United States devotes less than 3 percent of its total health care budget to health research. The Defense Department spends 15 percent of its budget on research. Does this make sense? The cold war is over but the war against disease and disability continues.

Increased investment in health research is key to reducing health costs in the long run. For example, the costs of Alzheimer's will more than triple in the coming century—adding further strains to Medicare as the baby boomers retire. We know that through research there is a real hope of a major breakthrough in this area. Simply delaying the onset of Alzheimer's by 5 years would save an estimated $50 billion.

Gene therapy and treatments for cystic fibrosis and Parkinson's could eliminate years of chronic care costs, while saving lives and improving patients' quality of life.

Mr. President, Senator SPECTER and I do everything we can to increase funding for NIH through the Labor, Health and Human Services and Education Appropriations bill. But the Balanced Budget Act of 1997 has put us on track to dramatically decrease discretionary spending, so that the nation's investment in health research through the NIH is likely to decline in real terms unless corrective legislative action is taken.

The NIH is not able to fund even 30% of competing research projects or grant applications deemed worthy of funding. Science and cutting edge medical research are being put on hold. We may be giving up possible cures for diabetes, cancer, Parkinson's and countless other diseases.

Mr. President, health research is an investment in our future—it is an investment in our children and grandchildren. It holds the promise of cure of treatment for millions of Americans.•

• Mr. SPECTER. Mr. President, I have sought recognition to join Senator TOM HARKIN, my colleague and distinguished ranking members of the Appropriations Subcommittee on Labor, Health and Human Services and Education, which I chair, in introducing the National Fund for Health Research Act of 1999. This creative proposal, which would create a dedicated health research fund in the U.S. Treasury to supplement the current federal research funding mechanisms, was first developed by Senator HARKIN and our former Senate colleague, Senator Mark Hatfield. I think their idea is a sound one and ought to be adopted, and I am pleased to join Senator HARKIN in introducing this legislation as I did during the 105th Congress. I have also included this proposal as a provision of my comprehensive health care reform legislation, the Health Care Assurance Act of 1999 (S. 24), introduced on January 19, 1999.

I have said many times that I firmly believe that the National Institutes of Health (NIH) is the crown jewel of the Federal government, and substantial investment is crucial to allow the continuation of the breakthrough research into the next decade. In 1981, NIH funding was less than $3.6 billion. For the past three years, NIH funding has increased by 6.8 percent in fiscal year 1997, 7.1 percent in fiscal year 1998, and 15 percent in fiscal year 1999, for a total of $15.7 billion. Senator HARKIN and I are continuing to fight to double the NIH budget, a sentiment which was unanimously supported in the United States Senate during the 105th Congress.

I was dismayed, however, upon examining President Clinton's $15.9 billion budget request for the NIH for fiscal year 2000—only a little over two percent growth, far less than the 15 percent needed to double NIH. At the President's requested level, new and competing NIH research project grants would drop by 1,554—from 9,171 in fiscal year 1999 to 7,617 in fiscal year 2000. This outlook on future grant awards is wholly inadequate to meet the country's most important challenges to improve the health and quality of life for millions of Americans.

To call the President's plan shortsighted would be an understatement. In practical terms, two percent amounts to spending less than $24 for every American who suffers from coronary heart disease. Two percent means slowing the race to cure breast cancer or discover a vaccine to prevent the spread of AIDS. And it means that some of the most promising new breakthroughs in science, like stem cell research, may be postponed for years. Breaking the code for complex problems takes a steady and sustained commitment of people and money.

The National Fund for Health Research Act which we are introducing today would continue Senator HARKIN'S and my unwavering commitment to increasing the nation's investment in biomedical research. The legislation would create a special fund for health research to supplement funding achieved through the regular appropriations process—possibly by as much as $6 billion annually. Our legislation would require health insurers to transfer to the U.S. Treasury an amount

equal to 1 percent of all health premiums they receive. To ensure that the additional funds generated do not simply replace regularly appropriated NIH funds, monies from the health research fund would only be released if the total amount appropriated for the NIH in that year equaled or exceeded the prior year appropriations.

We must all recognize that expanding our base of scientific knowledge inevitably leads to better health, lower health care costs, and an improved quality of life for all Americans. I believe that the creation of a fund for health research would bring us closer to those critical goals.

Mr. President, I urge my colleagues to support the National Fund for Health Research Act, and urge its swift adoption.●

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By Mr. THURMOND:

S. 1506. A bill to suspend temporarily the duty on cyclic olefin copolymer resin; to the Committee on the Judiciary.

DUTY SUSPENSION ON CERTAIN COPOLYMER RESIN

Mr. THURMOND. Mr. President, I rise today to introduce a bill which will suspend the duties imposed on a certain copolymer resin used in the production of high technology products. Currently, this resin is imported for use in the United States because there is no domestic supplier or readily available substitute. Therefore, suspending the duties on this copolymer resin would not adversely affect domestic industries.

This bill would temporarily suspend the duty on cyclic olefin copolymer resin, which is a resin used in the manufacturing of high technology products such as high precision optical lenses and laboratory micro liter plates.

Mr. President, suspending the duty on this resin will benefit the consumer by stabilizing the costs of manufacturing the end-use products. Further, this suspension will allow domestic producers to maintain or improve their ability to compete internationally. There are no known domestic producers of this material. I hope the Senate will consider these measures expeditiously.

I ask unanimous consent that the text of the bill be printed in the Congressional RECORD immediately following my remarks.

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

S. 1506

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CYCLIC OLEFIN COPOLYMER RESIN.**

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

| | | | | |
|---|---|---|---|---|
| "9902.39.00 Cyclic olefin copolymer resin (CAS No. 26007–43–2) (provided for in heading 3902.90.00) ..... | Free | Free | No change | On or before 12/31/2002". |

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

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By Mr. CAMPBELL:

S. 1507. A bill to authorize the integration and consolidation of alcohol and substance programs and services provided by Indian tribal governments, and for other purposes; to the Committee on Indian Affairs.

NATIVE AMERICAN ALCOHOL AND SUBSTANCE ABUSE PROGRAM CONSOLIDATION ACT

Mr. CAMPBELL. Mr. President, I am pleased to introduce the Native American Alcohol and Substance Abuse Program Consolidation Act of 1999, to enable Indian tribes to consolidate and integrate alcohol and substance abuse prevention, diagnosis, and treatment programs to provide unified and more effective services to Native Americans.

Native communities continue to be plagued by alcohol and substance abuse at staggering rates and this abuse is wreaking havoc on Native families across the country.

Unfortunately, alcohol continues to be an important risk factor associated with the top three killers of Native youth—accidents, suicide, and homicide.

Based on 1993 data, the rate of mortality due to alcoholism among Native youth ages 15 to 24 was 5.2 per 100,000, which is 17 times the rate for whites of the same age.

Native Americans have higher rates of alcohol and drug use than any other racial or ethnic group. Despite previous treatment and preventive efforts, alcoholism and substance abuse continue to be prevalent among Native youth: 82 percent of Native adolescents admitted to having used alcohol, compared with 66 percent of non-Native youth.

In a 1994 school-based study, 39 percent of Native high school seniors reported having ''gotten drunk'' and 39 percent of Native kids admitted to using marijuana.

Alcohol and substance abuse also contributes to other social problems including sexually transmitted diseases, child and spousal abuse, poor school achievement and dropout, drunk-driving related deaths, mental health problems, hopelessness and, too commonly, suicide.

The Federal Government offers several disparate and currently uncoordinated substance abuse prevention and treatment programs for which Native Americans are eligible. This bill addresses how to best coordinate these programs so that the resources are effectively targeted at the communities that need them.

Program funds from the Department of Education include the Office of Elementary and Secondary Education's Safe and Drug-Free Schools and Communities—National Programs; and the Safe and Drug-Free Schools and Communities—State Grants.

In the Department of Health and Human Services the programs include the Administration for Children and Families' (ACF) Social Services Block Grant; the Indian Health Service's (IHS) Urban Indian Health Services funds; the IHS's Research funds; the IHS's Alcohol and Substance Abuse services including outpatient visits, inpatient days, regional treatment centers, admissions, aftercare referrals, and emergency placements; the Substance Abuse and Mental Health Services Administration (SAMHSA) Grants for Residential Treatment Programs for Pregnant and Postpartum Women; the SAMHSA Demonstration Grants for Residential Treatment for women and their Children; the SAMHSA Cooperative Agreements for Substance Abuse Treatment and Recovery Systems for Rural, Remote and Culturally Distinct Populations; the SAMHSA Mental Health Planning and Demonstration Projects; the SAMHSA Demonstration Grants for the Prevention of Alcohol and Drug Abuse Among High-Risk Populations; the SAMHSA Demonstration Grants on Model Projects for Pregnant and Postpartum Women and their Infants; the SAMHSA Comprehensive Residential Drug Prevention and Treatment, Projects for Substance-Using Women and their Children; and the SAMHSA Block Grants for Prevention and Treatment of Substance Abuse.

Programs in the Department of Housing and Urban Development (HUD) include Community Planning and Development, Shelter Plus Care; and HUD's Drug Elimination Grant funds.

Department of the Interior program funds include the Bureau of Indian Affairs, Services to Indian Children, Elderly and Families funds.

Programs in the Department of Justice include National Institute of Justice, Justice Research, Development, and Evaluation Project Grants.

The Department of Transportation funds include National Highway Traffic Safety Administration/Federal Highway Administration funds.

Funds available through the National Institutes of Health—National Institute on Alcohol Abuse and Alcoholism include several different grant programs for minorities and the prevention of alcohol abuse.

The goal of this bill is to authorize tribal governments and inter-tribal organizations to consolidate these programs through a single Federal office, in the Bureau of Indian Affairs, and use a single implementation plan to reduce the administrative and bureaucratic processes and result in more and better services to Native Americans.

This legislation tracks the widely-hailed and very successful ''477 model''

that Indian tribes have had used to effectively coordinate employment training and related services through the Indian Employment Training and Related Services Demonstration Act of 1992 (Pub. Law 102–477).

Under the ''477 model,'' an applicant tribe can file a single comprehensive plan to draw and coordinate resources from many federal agencies and administer them through one office, the Bureau of Indian Affairs in the Department of the Interior.

To facilitate this inter-agency resource transfer, Secretaries of named agencies are required to negotiate and enter into memoranda of understanding.

The bill I am introducing today mirrors the ''477 model'' for purposes of alcohol and drug abuse resources.

I am certain that with this authority, Indian tribes can achieve the same high level of success they have had in the employment training field.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1507

*Be it enacted in 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 ''Native American Alcohol and Substance Abuse Program Consolidation Act of 1999.''

**SEC. 2. STATEMENT OF PURPOSE.**

The purposes of this Act are (a) to enable Indian tribes to consolidate and integrate alcohol and other substance abuse prevention, diagnosis and treatment programs to provide unified and more effective and efficient services to Native Americans afflicted with alcohol and other substance abuse problems; and (b) to recognize that Indian tribes can best determine the goals and methods for establishing and implementing prevention, diagnosis and treatment programs for their communities, consistent with the policy of self-determination.

**SEC. 3. DEFINITIONS.**

For the purposes of this Act, the following definitions shall apply:

(1) FEDERAL AGENCY.—The term ''Federal agency'' has the same meaning given the term in section 551(1) of title 5, United States Code.

(2) INDIAN TRIBE.—The terms ''Indian tribe'' and ''tribe'' shall have the meaning given the term ''Indian tribe'' in section 4(e) of the Indian Self-Determination and Education Assistance Act.

(3) INDIAN.—The term ''Indian'' shall have the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act.

(4) SECRETARY.—Except where otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

**SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.**

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, Secretary of Education, Secretary of Housing and Urban Development, United States Attorney General, Secretary of Transportation, and Director of the National Institutes of Health shall, upon the receipt of a plan acceptable to the Secretary submitted by an Indian tribe, authorize the tribe to coordinate, in accordance with such plan, its federally funded alcohol and substance abuse in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

**SEC. 5. PROGRAMS AFFECTED.**

The programs that may be integrated in any such plan referred to in section 4 shall include any program under which an Indian tribe is eligible for receipt of funds under a statutory or administrative formula for the purposes of prevention, diagnosis or treatment of alcohol and other substance abuse problems and disorders, or any program designed to enhance the ability to treat, diagnose or prevent alcohol and other substance abuse and related problems and disorders.

**SEC. 6. PLAN REQUIREMENTS.**

For a plan to be acceptable pursuant to section 4, it shall—

(1) Identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated into this project;

(3) describe a comprehensive strategy which identifies the full range of existing and potential diagnosis, treatment and prevention programs available on and near the tribe's service area;

(4) describe the way in which services are to be integrated and delivered and the results expected under the plan;

(5) identify the project expenditures under the plan in a single budget;

(6) identify the agency or agencies in the tribe to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies or procedures that the tribe believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the tribe.

**SEC. 7. PLAN REVIEW.**

Upon receipt of the plan from a tribal government, the Secretary shall consult with the Secretary of each Federal agency providing funds to be used to implement the plan, and with the tribe submitting the plan. The parties consulting on the implementation of the plan submitted shall identify any waivers of statutory requirements or of Federal agency regulations, policies or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected agency shall have the authority to waive any statutory requirement, regulation, policy, or procedure promulgated by the affected agency that has been identified by the tribe or the Federal agency to be waived, unless the Secretary of the affected department determines that such a waiver is inconsistent with the purposes of this Act or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian programs.

**SEC. 8. PLAN APPROVAL.**

Within 90 days after the receipt of a tribe's plan by the Secretary, the Secretary shall inform the tribe, in writing, of the Secretary's approval or disapproval of the plan, including any request for a waiver that is made as part of the plan submitted by the tribal government. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval, including reconsidering the disapproval of any waiver requested by the Indian Tribe.

**SEC. 9. FEDERAL RESPONSIBILITIES.**

(a) RESPONSIBILITIES OF THE DEPARTMENT OF THE INTERIOR.—Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, the Secretary of Transportation, and the Director of the National Institutes of Health shall enter into an interdepartmental memorandum of agreement providing for the implementation of the plans authorized under this Act. The lead agency under this Act shall be the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project which shall be used by a tribe to report on the activities undertaken by the plan;

(2) the use of a single report format related to the projected expenditures of the individual plan which shall be used by a tribe to report on all plan expenditures;

(3) the development of a single system of Federal oversight for the plan, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribe appropriate to the plan, delivered under an arrangement subject to the approval of the tribe participating in the project, except that a tribe shall have the authority to accept or reject the plan for providing the technical assistance and the technical assistance provider; and

(5) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out projects under this Act, in consultation with each of the Indian tribes that * * *.

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By Mr. CAMPBELL:

S. 1508. A bill to provide technical and legal assistance for tribal justice systems and members of Indian tribes, and for other purposes; to the Committee on Indian Affairs.

NATIVE JUSTICE SYSTEMS ENHANCEMENT ACT

Mr. CAMPBELL. Mr. President, today I introduce the ''Indian Tribal Justice System Technical and Legal Assistance Act of 1999'' to bolster earlier efforts to strengthen Indian tribal justice systems such as the Indian Tribal Justice Act of 1933. I want to be clear: the legislation I am introducing today is intended to complement, not substitute for, the 1993 Act.

Unfortunately, most Native Americans continue to live in abject poverty and as with other indigent groups, access to legal assistance is poor.

In 1997 the Department of Justice published a report showing that crime, particularly violent crime, is rampant on Indian lands. The Congress and the Administration both properly responded with an infusion of millions of dollars for crime prevention, prosecution and detention.

There is also a huge need civil legal assistance in Native communities that is not now being met and that is one of the aims of the bill I am introducing today.

Since the late 1960's Indian Legal Services (''ILS'') organizations have stepped into the fray to provide basic legal service to individual Native Americans and tribes whose members

fall within the federal poverty guidelines.

There are now 30 Indian legal service organizations—very small programs which receive the bulk of their funds from the Legal Services Corporation (LSC). ILS programs provide basic, bread-and-butter legal representation to individual Indian people, and small tribes, throughout the United States.

In addition to providing legal help to individual Natives, ILS assists tribes in developing tribal justice systems, including training court personnel, and strengthening the capacity of tribal courts to handle both civil and criminal matters.

The ILS organizations have been involved in developing written codes on tribal law and practice and procedure in tribal courts, training tribal judges, developing tribal court ''lay advocate'' programs and training lay advocates, and the developing tribal ''peacemaking'' systems which are traditional alternative dispute resolution methods.

The ILS programs carrying out these key functions include the DNA Legal Services of Arizona, New Mexico and Utah; the Michigan Indian Legal Services; the Dakota Plains Legal Services; Wisconsin Judicare; Idaho Legal Aid Services; Oklahoma Indian legal Services; Pine Tree Legal Assistance of Maine, and many others.

Together, tribal governments and the ILS organizations work to ensure that Native justice systems work and that Natives and non-Natives alike have confidence in tribal justice systems and institutions.

Generating that confidence is important for a variety of reasons. For instance, there are many factors determining whether or not a Native community can be competitive and attract investment and business activities to boost employment: a solid physical infrastructure, a skilled and healthy workforce, access to capital, and a governing structure that encourages risk taking and entrepreneurship.

Part of such an environment is a judicial system that instills confidence in businesses as well as individuals that disputes can be settled fairly, that contracts will be honored, and that the governed recognize the government's authority as legitimate.

A disordered system does not foster that confidence. Whether or not individuals will have access to legal services and well-ordered tribunals is key to development.

A strong ''legal infrastructure'' is widely recognized in American business circles as a necessary condition for business development whether it be in Russian, Indonesia, inner city America, or on Indian lands.

Within existing appropriations, the bill I am introducing authorizes the Attorney General, in consultation with the Office of Tribal Justice, to provide assistance to legal service organizations and non-profit entities to help build capacity of tribal courts and tribal justice systems so that confidence in these systems can be augmented, and much-needed legal assistance will be provided.

The three areas targeted for assistance are training for tribal judicial personnel, tribal civil legal assistance, and tribal criminal assistance.

I believe that in addition to regulatory reform, physical infrastructure, and development assistance, strengthening tribal justice systems is another component in bringing real development to tribal economies and government.

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

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

S. 1508

*Be it enacted by the Senate and House or Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the Indian Tribal Justice Technical and Legal Assistance Act of 1999.

**SEC. 2. FINDINGS.**

The Congress finds and declares that—

1) There is a a government-to-government relationship between the United States and Indian tribes;

2) Indian tribes are sovereign entities and are responsible for exercising governmental authority over Indian tribes;

3) The rate of violent crime committed in Indian country is approximately twice the rate of violent crime committed in the United States as a whole;

4) In any community, a high rate of violent crime is a major obstacle to investment, job creation and economic growth;

5) Tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring the health and safety and the political integrity of tribal governments;

6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the most appropriate forums for the adjudication of disputes affected personal and property rights on Native lands;

7) Enhancing tribal court systems and improving access to those systems serves the dual Federal goals of tribal political self-determination and economic self-sufficiency;

8) There is both inadequate funding and an inadequate coordinating mechanism to meet the technical and legal assistance needs of tribal justice systems and this lack of adequate technical and legal assistance funding impairs their operation;

9) Tribal court membership organizations have served a critical role in providing training and technical assistance for development and enhancement of tribal justice systems;

10) Indian legal services programs, as funded partially through the Legal Services Corporation, have an established record of providing cost effective legal assistance to Indian people in tribal court forums, and also contribute significantly to the development of tribal courts and tribal jurisprudence; and

11) The provision of adequate technical assistance to tribal courts and legal assistance to both individuals and tribal courts is an essential element in the development of strong tribal court systems.

**SEC. 3. PURPOSES.**

The purposes of this Act are as follows:

(1) To carry out the responsibility of the United States to Indian tribes and members of Indian tribes by ensuring access to quality technical and legal assistance;

(2) To strengthen and improve the capacity of tribal court systems that address civil and criminal causes of action under the jurisdiction of Indian tribes;

(3) To strengthen tribal governments and the economies of Indian tribes through the enhancement and, where appropriate, development of tribal court systems for the administration of justice in Indian country by providing technical and legal assistance services;

(4) To encourage collaborative efforts between national or regional membership organizations and associations whose membership consists of judicial system personnel within tribal justice systems; non-profit entities which provide legal assistance services for Indian tribes, members of Indian tribes, and/or tribal justice systems; and

(5) To assist in the development of tribal judicial systems by supplementing prior Congressional efforts such as the Indian Tribal Justice Act (Public Law 103–176).

**SEC. 4. DEFINITIONS.**

For purposes of this Act:

(1) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(2) INDIAN LANDS.—The term ''Indian lands'' shall include lands within the definition of ''Indian country'', as defined in 18 USC 1151; or ''Indian reservations'', as defined in section 3(d) of the Indian Financing Act of 1974, 25 USC 1452(d), or section 4(10) of the Indian Child Welfare Act, 25 USC 1903(10). For purposes of the preceding sentence, such section 3(d) of the Indian Financing Act shall be applied by treating the term ''former Indian reservations in Oklahoma'' as including only lands which are within the jurisdictional area of an Oklahoma Indian Tribe (as determined by the Secretary of Interior) and are recognized by such Secretary as eligible for trust land status under 25 CFR Part 151 (as in effect on the date of enactment of this sentence).

(3) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity, which administers justice or plans to administer justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) JUDICIAL PERSONNEL.—The term ''judicial personnel'' means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal judicial system.

(5) NON-PROFIT ENTITIES.—The term ''non-profit entity'' or ''non-profit entities'' has the meaning given that term in section 501(c)(3) of the Internal Revenue Code.

(6) OFFICE OF TRIBAL JUSTICE.—The term ''Office of Tribal Justice'' means the Office of Tribal Justice in the United States Department of Justice.

(7) TRIBAL JUSTICE SYSTEM.—The term ''tribal court'', ''tribal court system'', or ''tribal justice system'' means the entire judicial branch, and employees thereof, of an Indian tribe, including, but not limited to, traditional methods and fora for dispute resolution, tribal courts, appellate courts, including inter-tribal appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record.

TITLE I—TRAINING AND TECHNICAL ASSISTANCE, CIVIL AND CRIMINAL LEGAL ASSISTANCE GRANTS

**SEC. 101. TRIBAL JUSTICE TRAINING AND TECHNICAL ASSISTANCE GRANTS**

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to national or regional membership organizations and associations whose membership consists of judicial system personnel within tribal justice systems which submit an application to the Attorney General in such form and manner as the Attorney General may prescribe to provide training and technical assistance for the development, enrichment, enhancement of tribal justice systems, or other purposes consistent with this Act.

**SEC. 102. TRIBAL CIVIL LEGAL ASSISTANCE GRANTS.**

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to non-profit entities, as defined under section 501(c)(3) of the Internal Revenue Code, which provide legal assistance services for Indian tribes, members of Indian tribes, or tribal justice systems pursuant to federal poverty guidelines that submit an application to the Attorney General in such form and manner as the Attorney General may prescribe for the provision of civil legal assistance to members of Indian tribes and tribal justice systems, and/or other purposes consistent with this Act.

**SEC. 103. TRIBAL CRIMINAL ASSISTANCE GRANTS.**

Subject to the availability of appropriations, the Attorney General, in consultation with the Office of Tribal Justice, shall award grants to non-profit entities, as defined by section 501(c)(3) of the Internal Revenue Code, which provide legal assistance services for Indian tribes, members of Indian tribes, or tribal justice systems pursuant to federal poverty guidelines that submit an application to the Attorney General in such form and manner as the Attorney General may prescribe for the provision of criminal legal assistance to members of Indian tribes and tribal justice systems, and/or other purposes consistent with this Act. Funding under this Title may apply to programs, procedures, or proceedings involving adult criminal actions, juvenile delinquency actions, and/or guardian-ad-litem appointments arising out of criminal or delinquency acts.

**SEC. 104. NO OFFSET.**

No Federal agency shall offset funds made available pursuant to this Act for Indian tribal court membership organizations or Indian legal services organizations against other funds otherwise available for use in connection with technical or legal assistance to tribal justice systems or members of Indian tribes.

**SEC. 105. TRIBAL AUTHORITY.**

Nothing in this Act shall be construed to—

(1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal justice system within the tribal government or to enact and enforce tribal laws;

(2) diminish in any way the authority of tribal governments to appoint personnel;

(3) impair the rights of each tribal government to determine the nature of its own legal system or the appointment of authority within the tribal government;

(4) alter in any way any tribal traditional dispute resolution fora;

(5) imply that any tribal justice system is an instrumentality of the United States; or

(6) diminish the trust responsibility of the United States to Indian tribal governments and tribal justice systems of such governments.

**SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

For purposes of carrying out the activities under this Act, there are authorized to be appropriated such sums as are necessary for fiscal years 2000 through 2004.

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By Mr. CAMPBELL:

S. 1509. A bill to amend the Indian Employment, Training, and Related Services Demonstration Act of 1992, to emphasize the need for job creation on Indian reservations, and for other purposes; to the Committee on Indian Affairs.

INDIAN EMPLOYMENT, TRAINING AND JOB CREATION

Mr. CAMPBELL. Mr. President, I am pleased to introduce the Indian Employment, Training, and Related Services Demonstration Act Amendments of 1999.

This bill will amend Public Law 102–477, better known as ''the 477 law'' that authorizes Indian tribes and tribal organizations to bring together many federal employment and training programs, consolidate them into one plan, and in the process achieve an efficiency that otherwise would not be possible.

The 1992 Act allows tribes to submit one comprehensive plan, to one agency, and in the process to bring together resources from the Departments of Interior, Labor, Health and Human Services, and others for purposes of employment training.

The keys to the success of ''477'' is that it is entirely voluntary—with tribes deciding for themselves whether to take advantage of its benefits; and second, it involves no federal appropriations of funds to administer it. Participating tribes report that the elimination of paperwork and bureaucracy are as important as is the administrative flexibility that ''477'' provides to tribes.

The focus of the 1996 federal welfare reform laws now being implemented by states and Indian tribes is on getting and retaining employment.

For Native American communities, many of whom suffer unemployment rates in the 80 to 90 percent range, job opportunities are difficult to come by and as a result the success of the 1996 law in Native communities is threatened.

In the 106th Congress the Committee on Indian Affairs has put economic and business development on Native lands at the center of its agenda. In addition to regulatory reform, physical infrastructure, and access to capital, part of the agenda must be to find creative efforts to maximize scarce federal resources for Indian development.

By all accounts, the 1992 Act has been a success for Native people struggling to get employment and training and other services related to the world of work.

The bill I am introducing today will build on that success and liberalize tribal authority under the statute, authorize actual job-creation activities, permit regional consortia of Alaska Native entities to participate in the program, and require that the agencies and the ''477 tribes'' begin to take the next steps in enlarging the scope of ''477'' by bringing in the resources of additional agencies whose mission is related to human resource, physical infrastructure, and economic development assistance generally.

A feasibility study and report are due to the authorizing committees not later than one year after enactment of the legislation.

As the Self Governance model has already shown, putting tribes in the driver's seat results in better services to consumers, more efficient administrative frameworks, and often times a savings in federal resources. This bill will improve on an already-successful program and help Native communities provide employment training and jobs to their citizens.

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. 1509

*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 ''Indian Employment, Training and Related Services Demonstration Act Amendments of 1999''.

**SEC. 2. FINDINGS, PURPOSES.**

(a) FINDINGS.—The Congress finds that:

(1) Indian tribes and Alaska Native organizations that have participated in carrying out programs under the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) have—

(A) improved the effectiveness of employment-related services provided by those tribes and organizations to their members;

(B) enabled more Indian and Alaska Native people to prepare for and secure employment;

(C) assisted in transitioning tribal members from welfare to work; and

(D) otherwise demonstrated the value of integrating employment, training, education and related services.

(5) the initiatives under the Indian Employment, Training, and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all federal programs that emphasize the value of work may be included within a demonstration program of an Indian or Alaska Native organization;

(6) the initiatives under the Indian Employment, Training, and Related Services Demonstration Act of 1992 should have the benefit of the support and attention of the officials with policymaking authority of

(A) the Department of the Interior;

(B) other federal agencies that administer programs covered by the Indian Employment, Training and Related Services Demonstration Act of 1992.

(b) PURPOSES.—The purposes of this Act are to demonstrate how Indian tribal governments and integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities, foster economic development on Indian lands, and serve tribally-determined goals consistent with the policies of self-determination and self-governance.

**SEC. 3. AMENDMENTS TO THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.**

(a) DEFINITIONS.— Section 3 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3402) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2) the following:

''(1) FEDERAL AGENCY.—The term ''federal agency'' has the same meaning given the term ''agency'' in section 551(1) of title 5, United States Code''.

(b) PROGRAMS AFFECTED.—Section 5 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3404) is amended by striking ''job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training'' and inserting the following: ''assisting Indian youth and adults to succeed in the workforce, encouraging self-sufficiency, familiarizing Indian youth and adults with the world of work, facilitating the creation of job opportunities and any services related to these activities.''

''(c) PLAN REVIEW.—Section 7 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3406) is amended)—

(1) by striking ''Federal department'' and inserting ''Federal agency'';

(2) by striking Federal departmental'' and inserting ''Federal agency'';

(3) by striking ''department'' each place it appears and inserting ''agency''; and

(4) in the third sentence, by inserting ''statutory requirement'', after ''to waive any''.

''(d) PLAN APPROVAL.—Section 8 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3407) is amended—

(1) in the first sentence, by inserting before the period at the end the following; '', including any request for a waiver that is made as part of the plan submitted by the tribal government'';

(2) in the second sentence, by inserting before the period at the end the following: '', including reconsidering the disapproval of any waiver requested by the Indian tribe''.

''(e) JOB CREATION ACTIVITIES AUTHORIZED.—Section 9 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 USC 3407) is amended—

(1) by inserting ''(a) In General—'' before ''The plan submitted''; and

(2) by adding at the end the following:

''(b) JOB CREATION OPPORTUNITIES.—

(1) IN GENERAL.—Notwithstanding any other provisions of law, including any requirement of a program that is integrated under a plan under this Act, a tribal government may use a percentage of the funds made available under this Act (as determined under paragraph (2)) for the creation of employment opportunities, including providing private sector training placement under section 10.

(2) DETERMINATION OF PERCENTAGE.—The percentage of funds that a tribal government may use under this subsection is the greater of—

''(A) the rate of unemployment in the service area of the tribe up to a maximum of 25 percent; or

''(B) 10 percent.

''(c) LIMITATION.—The funds used for an expenditure described in subsection (a) may only include funds made available to the Indian tribe by a federal agency under a statutory or administrative formula''.

**SEC. 3. ALASKA REGIONAL CONSORTIA.**

The Indian Employment, Training, and Related Services Demonstration Act of 1992 is amended by adding at the end the following:

**''SEC. 19. ALASKA REGIONAL CONSORTIA.**

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary shall permit a regional consortium of Alaska Native villages or regional or village corporations (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to carry out a project under a plan that meets the requirements of this Act through a resolution adopted by the governing body of that consortium or corporation.

(b) WITHDRAWAL.—Nothing in subsection (a) is intended to prohibit an Alaska Native village from withdrawing from participation in any portion of a program conducted pursuant to this Act.

**SEC. 5. REPORT ON EXPANDING THE OPPORTUNITIES FOR PROGRAM INTEGRATION.**

Not later than one year after the date of enactment of this Act, the Secretary, the Secretary of Health and Human Services, the Secretary of Labor, and the tribes and organizations participating in the integration initiative under this Act shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the opportunities for expanding the integration of human resource development and economic development programs under this Act, and the feasibility of establishing Joint Funding Agreements to authorize tribes to access and coordinated funds and resources from various agencies for purposes of human resources development, physical infrastructure development, and economic development assistance in general. Such report shall identify programs or activities which might be integrated and make recommendations for the removal of any statutory or other barriers to such integration.

**SEC. 6. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

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By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mr. MURKOWSKI):

S. 1510. A bill to revise the laws of the United States appertaining to United States cruise vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE UNITED STATES SHIP TOURISM DEVELOPMENT ACT OF 1999

Mr. MCCAIN. Mr. President, today I, with Senators HUTCHISON, FEINSTEIN, and MURKOWSKI, are introducing the United States Cruise Ship Tourism Development Act of 1999. The purposes of this bill is to provide increased domestic cruise opportunities for the American cruising public by temporarily reducing barriers to operation in the domestic cruise market. I want to start by thanking Senator HUTCHISON, who as Chairman of the Surface Transportation and Merchant Marine Subcommittee is continuing her efforts to help rebuild our nation's cruise ship industry. She along with Senators FEINSTEIN and MURKOWSKI are great partners to have as this legislation moves forward.

Americans today have a wide variety of choices when it comes to vacationing on large oceangoing cruise ships. However, due to barriers to entry that were created in 1886, the itineraries, with few exceptions, do not include domestic trade. Large cruise ship domestic trade options are currently limited to one ocean going cruise vessel in Hawaii. Also, the U.S. port calls on international itineraries are heavily concentrated in Florida and Alaska due to the proximity of these states to neighboring countries. This means that America's cruising public is denied the opportunity to cruise to many attractive U.S. port destinations, and those ports are denied the economic benefits of those visits.

We have an opportunity in this Congress to temporarily reduce barriers for entry into the domestic cruise ship trade, creating new U.S. jobs, and generating millions of dollars in new U.S. business without any cost to existing U.S. jobs. During the 105th Congress three separate bills addressing the domestic cruise ship trade were referred to the Commerce Committee. Unfortunately, we were not able to reach a consensus on any measure that would remove the barriers created in the law measure that would remove the barriers created in the law commonly referred to as the Passenger Vessel Services Act. I am hopeful that the bill that we are introducing today will see more success.

While I have made it clear in the past that I would like to do away with the trade barriers contained in the Passenger Vessel Services Act, this bill does not do that. What this bill does do is allow the Secretary of Transportation a limited time to waive certain coastwise trade restrictions. It is my strong belief that this will stimulate growth and opportunity within the domestice cruise ship trade with the beneficiaries being U.S. port cities and business, and more importantly, the millions of American citizens who want to be able to enjoy cruising between U.S. ports. I expect some of my colleagues on the on the Commerce Committee may want to make additional changes to this bill in Committee. I look forward to working these issues out with them in the coming months.

I believe it is important for this Congress to take action on this issue in order to maximize the economic growth potential of the domestic cruise ship trade and the cruising opportunities for America's public.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1510

*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 SECTIONS.**

(a) SHORT TITLE.—This Act may be cited as the ''United States Cruise Ship Tourism Development Act of 1999''.

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.
Sec. 2. Definitions.

Title I—Operations Under Permit
Sec. 101. Domestic cruise vessel.
Sec. 102. Domestic itinerary operating requirements.
Sec. 103. Certain operations prohibited.
Sec. 104. Limited employment of eligible cruise vessels in the coastwise trade of the United States.
Sec. 105. Priorities within domestic markets.
Sec. 106. Construction standards.
Title II—Post-Permit Operations of Eligible Cruise Vessels
Sec. 201. Continued operation in domestic itinerary requirements.
Title III—Other Provisions
Sec. 301. Amendment of title XI of the Merchant Marine Act, 1936
Sec. 302. Application with Jones Act and other Acts.
Sec. 303. Glacier Bay and other National Park Service area permits.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) ELIGIBLE CRUISE VESSEL.—The term ''eligible cruise vessel'' means a cruise vessel that—

(A) is documented under the laws of the United States or the laws of another country;

(B) is not otherwise qualified to engage in the coastwise trade between ports in the United States;

(C) was delivered after January 1, 1980;

(D) provides a full range of overnight accommodations, entertainment, dining, and other services for its passengers;

(E) has a fixed smoke detection and sprinkler system installed throughout the accommodation and service spaces, or will have such a system installed within the time period required by the 1992 Amendments to the Safety of Life at Sea Convention of 1974; and

(F) displaces—

(i) greater than 20,000 gross registered tons; or

(ii) more than 9,000 gross registered tons and has an all-suites luxury configuration with a minimum of 240 square feet per revenue room.

(2) ITINERARY.—The term ''itinerary'' means the route travelled by a cruise vessel on a single voyage that begins at the first port of embarkation for passengers on that voyage, includes each port at which the vessel docks before the last port of disembarkation for such passengers, and ends at that last port of disembarkation.

(3) OPERATING DAY.—The term ''operating day'' means a day of the week on which a vessel embarks, transports, or disembarks passengers.

(4) OPERATOR.—The term ''operator'' means the owner, operator, or charterer.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(6) UNITED STATES-FLAG VESSEL.—The term ''United States-flag vessel'' means a vessel documented under subsection (a) or (d) of section 12102 of title 46, United States Code.

## TITLE I—OPERATIONS UNDER PERMIT

**SEC. 101. DOMESTIC CRUISE VESSEL.**

(a) IN GENERAL.—Notwithstanding the provisions of section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), or any other provision of law, the Secretary may issue a permit for an eligible cruise vessel to operate in domestic itineraries in the transportation of passengers in the coastwise trade between ports in the United States.

(b) MAXIMUM OPERATING DAYS.—An eligible cruise vessel not documented under the laws of the United States that is operated under a permit issued by the Secretary under subsection (a) may not be operated under that permit for more than 200 operating days.

(c) EXPIRATION OF PERMIT AUTHORITY.—Except as otherwise provided in section 201 of this Act, a permit issued by the Secretary under subsection (a) shall terminate December 31, 2006.

(d) OPERATING WINDOW.—The authority of the Secretary to issue a permit under subsection (a) begins on the day after the date of enactment of this Act and terminates on the day that is 3 years after that date.

**SEC. 102. DOMESTIC ITINERARY OPERATING REQUIREMENTS.**

(a) IN GENERAL.—Except as provided in section 104 of this Act, the Secretary may not approve an itinerary for a voyage commencing less than 1 year after the date of enactment of this Act requested by an eligible cruise vessel that is not documented under the laws of the United States.

(b) REGULATORY REQUIREMENTS.—The Secretary may not issue a permit under section 101(a) for an eligible cruise vessel not documented under the laws of the United States unless the operator establishes to the satisfaction of the Secretary that, except as otherwise provided in this Act, the vessel will be operated in full compliance with all rules, regulations, and operating requirements relating to health, safety, environmental protection and other appropriate operational standards (as determined by the Secretary), that would apply to any United States-flag cruise vessel operating in domestic itineraries in the transportation of passengers under a permit issued under section 101(a). The Secretary shall issue final rules under this section within 180 days after the date of enactment of this Act.

(c) REPAIRS.—

(1) IN GENERAL.—The Secretary may not issue a permit under section 101(a) for an eligible cruise vessel unless the operator establishes to the satisfaction of the Secretary that—

(A) any repair, maintenance, alteration, or other preparation of the vessel for operation under a permit issued under section 101(a) has been, or will be, performed in a United States shipyard; and

(B) any repair or maintenance of the vessel after a permit is issued under that section and before the expiration of the operating limitation period in section 101(b) will be performed in a United States shipyard.

(2) WAIVER.—The Secretary may waive the requirements of paragraph (1) if the Secretary finds that the repair, maintenance, alterations, or other preparation services are not available in the United States or if an emergency dictates that the ship proceed to a foreign port.

(d) ESCROW ACCOUNT.—The Secretary may not issue a permit under section 101(a) for an eligible cruise vessel unless the operator agrees to deposit $5 for each passenger embarking on that vessel while operating under the permit into the escrow fund established under section 1108 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1270a).

(e) COMPLIANCE.—If the Secretary determines that an eligible cruise vessel is not in compliance with any commitment made to the Secretary by its operator under this Act, the permit issued for that vessel under section 101(a) shall be null and void.

**SEC. 103. CERTAIN OPERATIONS PROHIBITED.**

An eligible cruise vessel operating in domestic itineraries under a permit issued under section 101(a) may not—

(1) operate as a ferry;

(2) regularly carry for hire both passengers and vehicles or other cargo; or

(3) operate between or among the islands of Hawaii.

**SEC. 104. LIMITED EMPLOYMENT OF FOREIGN-FLAG CRUISE SHIPS IN THE COASTWISE TRADE OF THE UNITED STATES.**

(a) IN GENERAL.—Notwithstanding section 12106 of title 46, United States Code, section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), and section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), the Secretary may approve the employment in the coastwise trade of the United States of an eligible cruise vessel operating under a permit issued under section 101(a) of this Act for repositioning as provided by under subsection (b) or for charter as provided by subsection (c).

(b) REPOSITIONING.—An eligible cruise vessel not documented under the laws of the United States operating under a permit issued under section 101(a) of this Act may be employed in the coastwise trade during the first year after the date of enactment of this Act for not more than 2 voyages, the coastwise trade portion of which does not exceed 2 weeks and includes transportation of passengers for hire—

(1) from one coast of the United States through the Panama Canal to another coast of the United States; or

(2) along one coast of the United States during a voyage between 2 foreign countries.

(c) CHARTERS.—An eligible cruise vessel not documented under the laws of the United States operating under a permit issued under section 101(a) of this Act may be employed in the coastwise trade during the first year after the date of enactment of this Act if it is time-chartered to a charterer that—

(1) does not own or operate a cruise ship; and

(2) is not affiliated with an owner or operator of a cruise ship.

(d) PRIORITIES.—Section 105 applies to vessels employed in the coastwise trade under this section.

**SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.**

(a) IN GENERAL.—The Secretary shall, by regulation, establish a priority system for cruise vessels providing passenger service in domestic itineraries within 180 days after the date of enactment of this Act.

(b) PRIORITY TO U.S.-BUILT OR U.S.-REBUILT VESSELS.—Under the regulations to be prescribed by the Secretary, a cruise vessel built or rebuilt in the United States and documented under the laws of the United States shall have priority over any other cruise vessel of comparable size operating in a comparable market under a permit issued under section 101(a).

(c) PRIORITY TO U.S.-FLAG VESSELS.—The Secretary shall prescribe regulations under which a cruise vessel documented under the laws of the United States that is not built or rebuilt in the United States has priority over an eligible cruise vessel of comparable size not documented under the laws of the United States that is operating in a comparable market.

(d) FACTORS CONSIDERED.—In determining and assigning priorities under the regulations, the Secretary shall consider, among other factors determined by the Secretary to be appropriate—

(A) the scope of a vessel's itinerary;

(B) the time frame within which the vessel will serve a particular itinerary; and

(C) the size of the vessel.

(e) IMPLEMENTATION.—

(1) INTINERARY SUBMISSION REQUIRED.—An eligible cruise vessel may not be operated in a domestic itinerary unless the operator has submitted a proposed itinerary for that vessel, in accordance with this subsection, for cruise itineraries for the calendar year beginning 2 years after the date on which the itinerary is required to be submitted under paragraph (2).

(2) TIME AND MANNER OF SUBMISSION.—Each operator of an eligible cruise vessel to be operated in a domestic itinerary shall submit a proposed itinerary to the Secretary in the form required by the Secretary in February

of each year beginning after the date of enactment of this Act.

(3) REVISIONS AND LATER SUBMISSIONS.—The Secretary shall permit late submissions and revisions of submissions after the final list of approved itineraries is published under paragraph (4)(C) and before the date that is 90 days before the start date of a requested itinerary, but a late submission or revision by a higher priority cruise vessel may not displace a priority assigned on the basis of timely submission by a lower priority cruise vessel. If operators of comparable vessels submit comparable requests within 30 days of each other, the priorities of this section apply at the discretion of the Secretary.

(4) SCHEDULING.—

(A) ACTION BY SECRETARY.—Within 60 days after receiving an itinerary submitted under this subsection, the Secretary shall—

(i) review the schedule for compliance with the priorities established by this section;

(ii) advise affected cruise ship operators of any specific itinerary that is not available and the reason it is not available; and

(iii) publish a proposed list of approved itineraries.

(B) OPERATORS RESPONSE.—If the Secretary advises an operator under subparagraph (A)(ii) that a requested itinerary is not available, the operator may respond to the Secretary's advice within 30 days after it is received by the operator by appealing the Secretary's decision or by submitting a new itinerary proposal.

(C) RESOLUTION OF CONFLICTS.—As soon as practicable after the end of the 30-day period described in subparagraph (B), the Secretary shall—

(i) resolve any appeals and consider new itinerary proposals;

(ii) advise cruise ship operators who responded under subparagraph (B) of the Secretary's decision with respect to the appeal or the new itinerary proposal; and

(iii) publish a final list of approved itineraries.

(f) ITINERARIES BEFORE FINAL LIST IS FIRST PUBLISHED.—

(1) REQUESTS.—For itineraries before the first calendar year for which the Secretary publishes a final list of approved itineraries under subsection (e), the operator of a cruise vessel may submit a request for an itinerary to be sailed before that calendar year.

(2) CONFLICTING HIGHER PRIORITY USE.—If the itinerary submitted by an operator under paragraph (1) conflicts with an itinerary in use by a vessel with a higher priority under this section, the Secretary shall disapprove the request and notify the operator of the disapproval and the reason for the disapproval within 5 days (Saturdays, Sundays, and legal public holidays (as defined in section 6103 of title 5, United States Code, excepted) after the request is received.

(3) NO INITIAL CONFLICT.—If the itinerary submitted by an operator under paragraph (1) does not conflict with an itinerary in use by a vessel with a higher priority under this section, the Secretary shall publish the request and the requested itinerary immediately. If, within 30 days after the request is published, the operator of a cruise vessel with a higher priority under this section requests the use of the published itinerary, then the Secretary shall deny the published request and approve the request for the higher priority vessel. If no operator of a cruise vessel with a higher priority under this section requests the use of the published itinerary within 30 days after it is published, the Secretary shall approve the requested itinerary and publish notice of the approval.

(4) PUBLICATION OF INTERIM ITINERARIES.—Until the first publication of a final list of approved itineraries under subsection (e), the Secretary shall publish, on a quarterly basis, a list of itineraries approved under this subsection.

(g) REPORT.—The Secretary shall issue an annual report on the number of operating days used by each cruise vessel assigned a priority under this section.

**SEC. 106. CONSTRUCTION STANDARDS.**

An eligible cruise vessel for which the Secretary has issued a permit under section 101(a) is deemed to be in compliance with the requirements of section 3309 of title 46, United States Code, if it meets the standards and conditions for the issuance of a control verification certificate for a cruise vessel documented under the laws of a foreign country embarking passengers in the United States.

## TITLE II—POST-PERMIT OPERATIONS OF ELIGIBLE CRUISE VESSELS

**SEC. 201. CONTINUED OPERATION IN DOMESTIC ITINERARY REQUIREMENTS.**

(a) IN GENERAL.—After the expiration of its period of operations under a permit issued under section 101(a), an eligible cruise vessel not documented under the laws of the United States may not operate in domestic itineraries unless it meets the following conditions:

(1) DOCUMENTATION.—The vessel has been issued a certificate of documentation with a coastwise endorsement.

(2) OPERATING CREW; SUPPORT STAFF.—Each member of the vessel's operating crew licensed or certified by the United States Coast Guard is a citizen or resident alien of the United States as required by section 8103 of title 46, United States Code, and each individual employed aboard the vessel who is not a member of the operating crew is a citizen or permanent resident of the United States.

(b) CONSTRUCTION PLAN.—The operator of an eligible cruise vessel issued a permit under section 101(a) of this Act shall demonstrate to the satisfaction of the Secretary that, as of the date on which the vessel is documented under the laws of the United States—

(1) it has a plan for the construction of a cruise vessel in the United States; or

(2) it is a party to, or has made substantial progress toward entering into, an enforceable contract for the construction of such a vessel in the United States.

(c) EXPIRATION OF COASTWISE ENDORSEMENT.—The coastwise endorsement for an eligible cruise vessel operating under subsection (a) shall expire 24 months after the date on which construction is completed on the last vessel the operator of the eligible cruise vessel is obligated to construct in the United States under the contract described in subsection (b).

(d) REFLAGGING UNDER FOREIGN REGISTRY.—Notwithstanding section 9(c) of the Shipping Act, 1916 (46 U.S.C. App. 808), the operator of an eligible cruise ship issued a certificate of documentation with a coastwise endorsement, or a cruise vessel constructed under a contract described in subsection (a)(4), may place that vessel under foreign registry. The Secretary shall revoke the coastwise endorsement for any such vessel placed under foreign registry under this subsection permanently. Any vessel the coastwise endorsement for which is revoked under this subsection is not eligible thereafter for coastwise endorsement.

## TITLE III—OTHER PROVISIONS

**SEC. 301. AMENDMENT OF TITLE XI OF THE MERCHANT MARINE ACT, 1936.**

(a) RISK FACTOR.—Section 1103(h) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1103(h)) is amended by adding at the end thereof the following:

''(5) For purposes of the risk factor described in paragraph (3)(I), the Secretary shall consider an applicant for a guarantee, or a commitment to guarantee, under subsection (a) an obligation in connection with a contract described in section 201(a)(4) of the United States Cruise Ship Tourism Development Act of 1999 to possess the necessary operating ability, experience, and expertise required if the applicant demonstrates to satisfaction of the Secretary that its personnel have the experience and ability to operate cruise vessels.''.

(b) QUALIFICATIONS.—Section 1104A(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(b)) is amended by adding at the end thereof the following:

''For purposes of paragraph (1), the Secretary shall consider an obligor with a contract described in section 201(b)(2) of the United States Cruise Ship Tourism Development Act of 1999 to possess the ability necessary to the adequate operation and maintenance of the cruise vessel that serves as security for the guarantee of the Secretary if the obligor demonstrates to the satisfaction of the Secretary that its personnel have the experience and ability to operate cruise vessels.''.

**SEC. 302. APPLICATION WITH JONES ACT AND OTHER ACTS.**

(a) IN GENERAL.—Nothing in this Act affects or otherwise modifies the authority contained in—

(1) Public Law 87-77 (46 U.S.C. App. 289b) authorizing the transportation of passengers and merchandise in Canadian vessels between ports in Alaska and the United States; or

(2) Public Law 98-563 (46 U.S.C. App. 289c) permitting the transportation of passengers between Puerto Rico and other United States ports.

(b) JONES ACT.—Nothing in this Act affects or modifies the Merchant Marine Act, 1920 (46 U.S.C. App. 861 et seq.).

**SEC. 303. GLACIER BAY AND OTHER NATIONAL PARK SERVICE AREA PERMITS.**

Notwithstanding the last sentence of section 3(g) of Public Law 91-383 (16 U.S.C. 1a-2(g)), the Secretary of the Interior, after consultation with the Secretary of Transportation, may issue new or otherwise available permits to United States-flag vessels carrying passengers for hire to enter Glacier Bay or any other area within the jurisdiction of the National Park Service. Any such permit shall not affect the rights of any person that, on the date of enactment of this Act, holds a valid permit to enter Glacier Bay or such other area.

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By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. DODD, Mr. ROBB, Mr. LEVIN, Mrs. MURRAY, and Mr. DASCHLE):

S. 1511. A bill to provide for education infrastructure improvement, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

21ST CENTURY SCHOOL MODERNIZATION ACT

• Mr. HARKIN. Mr. President, last month I had the honor of accompanying President Clinton and Education Secretary Richard Riley on a visit to Amos Hiatt Middle School in Des Moines, Iowa. We were joined by a high school teacher named Ruth Ann Gaines and an 8th grade student, Catherine Swoboda for a discussion on the need to modernize our nation's schools.

Hiatt Middle School opened its doors in 1925 and students spend all but a few hours a week in classrooms built during a time when Americans could not

imagine the technological advances that would occur by the end of the century.

In 1925, Americans were flocking to movie theaters to see—and hear—the first talking motion picture—Al Jolson's ''The Jazz Singer.'' The students who walked through the doors of the brand new Hiatt school that year could not imagine IMAX theaters with surround sound where a movie goer actually becomes a part of the film.

In 1925, consumers were lining up in department stores to buy novelties like electric phonographs, dial telephones, and self-winding watches. CDS, DVD players, cellular telephones or palm pilots were unthinkable.

And, the introduction of state-of-the art technologies like rural electrification and crop dusting were revolutionizing the lives of families and farmers alike.

There have been incredible technological and scientific advances in the past seven decades. Yet, our schools have not kept pace with the times. We continue to educate our children in schools built and equipped in bygone eras.

Mr. President, Iowa has a long and proud tradition when it comes to public education—a tradition which dates back to before statehood.

As a result of the Land Ordinance of 1785, every township in the new Western Territory was required to set aside 640 acres of land for support of public education. Iowa's first elementary school was established in 1830 and the first high school in 1850.

In 1858, the Iowa Free School Act laid the foundation for Iowa's public school system. By 1859 the state had 4,200 public schools—some in log cabins.

This long commitment to education has brought great results.

From 1870 on into this century, Iowa had the nation's highest literacy rate and the nation's highest test scores. Iowa students continue to do well but we must do better. Our public education system has served us well. But, the times have changed dramatically.

The thousands of one-room school houses that dotted the countryside served us well for many generations. But time marches on and so must our schools. Just as the pot-belly stove gave way to central heat; candles gave way for electric lights; the blackboard and chalk must make way for the computer. We must make sure that every child and every school can facilitate the technology of the 21st century. However, Iowa State University reports that we need at least $4 billion over the next ten years to repair and upgrade school buildings and Iowa and make sure they can effectively utilize educational technology.

Mr. President, the facts about the need to modernize and upgrade our nation's pubic school facilities are well known.

The General Accounting Office estimates that 14 million American children attend classes in schools that are unsafe or inadequate and it will cost $112 billion to upgrade existing public schools to overall good condition. In addition, GAO reports that 46 percent of schools lack adequate electrical wiring to support the full-scale use of technology.

Enrollment in elementary and secondary schools is at all time high and will continue to grow over the next 10 years making it necessary for the United States to build an additional 6,000 schools.

The American Society of Civil Engineers reports that public schools are in worse condition that any other sector of our national infrastructure. I ask unanimous consent that a report card on the nation's infrastructure be inserted in the record at the conclusion of my remarks.

To respond to this critical national problem, I am introducing the 21st Century School Modernization Act. I am pleased to have Senator KENNEDY, ROBB, LEVIN and MURRAY as cosponsors of this proposal.

This legislation reauthorizes direct federal grants to local school districts for the repair, renovation of construction of public schools. These grants are critically important to districts in impoverished areas that may not benefit from the tax-oriented proposals. Secondly, the bill builds a new partnership with states by creating State Infrastructure Banks to provide subsidized loans for school modernization purposes. Finally, the bill provides grants to assist school districts in the planning and design of new facilities that will serve as the center of the community.

The need to rebuild our nation's crumbling public schools is clear and I believe we must fight this battle on two critical fronts—this session's reauthorization of the Elementary and Secondary Education Act and by enacting legislation to provide targeted tax relief. The 21st Century School Modernization Act complements tax-oriented plans, such as those proposed by President Clinton and Senators DASCHLE, LAUTENBERG and ROBB, to provide school modernization tax credits to finance at least $25 billion in public school construction or renovation.

Mr. President, if the nicest thing our kids ever see are shopping malls, sports arenas, and movie theaters, and the most rundown place they see is their school, what signal are we sending them about the value we place on education and the future?

Let me give your some firsthand testimony from Jonathan Kozol's book, *Savage Inequalities*. Kozol writes about a school in Washington, D.C.'s low-income Anacostia district:

Tunisia, a fifth grader in Washington, D.C., tells Kozol:

> It's like this. The school is dirty. There isn't any playground. There's a hole in the wall behind the principal's desk. What we need to do is first rebuild the school. Build a playground. Plant a lot of flowers. Paint the classrooms. Fix the hole in the principal's office. Buy doors for the toilet stalls in the girl's bathroom. Make it a beautiful clean building. Make it pretty. Way it is, I feel ashamed.

Tunisia tells the story better than any politician can. She faces it every day when the school bell rings. We can and we must do a better job for Tunisia and her peers.

This is a serious national problem. And, it demands a comprehensive national response. The 21st Century School Modernization Act is a key part of that comprehensive national response and I urge my colleagues to support this legislation.●

Mr. KENNEDY. Mr. President, I strongly support this proposal to invest more in rebuilding and modernizing the nation's schools. I commend Senator HARKIN for his leadership on this issue, and I urge my colleagues to support this legislation, which is necessary to help the nation meet the critical need to modernize and rebuild crumbling and overcrowded schools.

Schools, communities, and governments at every level have to do more to improve student achievement. Schools need smaller classes, particular in the early grades. They need stronger parent involvement. They need well-trained teachers in the classroom who keep up with current developments in their field and the best teaching practices. They need after-school instruction for students who need extra help, and after-school programs to engage students in constructive activities. They need safe, modern facilities with up-to-date technology.

But, all of these reforms will be undermined if facilities are inadequate. Sending children to dilapidated, overcrowded facilities sends a message to these children. It tells them they don't matter. No CEO would tolerate a leaky ceiling in the board room, and no teacher should have to tolerate it in the classroom. We need to do all we can to ensure that children are learning in safe, modern buildings.

I am also pleased to be a cosponsor of Senator ROBB'S Public School Modernization and Overcrowding Relief Act, which provides tax incentives to rebuild and modernize schools. Senator HARKIN'S bill is a necessary complement to that legislation. Although tax incentives are an important way to meet the nation's critical school infrastructure needs, they do not meet the needs of all communities. The neediest communities need our direct support—and they need it now.

Senator HARKIN'S legislation authorizes discretionary funds to help local school districts and states repair, renovate, and rebuild crumbling public schools. It provides targeted discretionary grants to public schools that have major needs. To do so, it creates a revolving loan fund at the state level, which would provide low-interest or no-interest loans to repair existing schools or construct new facilities. The legislation will also provide a grant to

help local school districts in the planning and design of new facilities that would include input from parents, teachers, and the community.

Nearly one third of all public schools are more than 50 years old. 14 million children in a third of the nation's schools are learning in substandard buildings. Half of all schools have at least one unsatisfactory environmental condition. The problems with ailing school buildings aren't the problems of the inner city alone. They exist in almost every community, urban, rural, or suburban.

In addition to modernizing and renovating dilapidated schools, communities need to build new schools in order to keep pace with rising enrollments and to reduce class sizes. Elementary and secondary school enrollment has reached an all-time high again this year of 53 million students, and will continue to grow.

The Department of Education estimates that 2,400 new public schools will be needed by 2003 to accommodate rising enrollments. The General Accounting Office estimates that it will cost communities $112 billion to repair and modernize the nation's schools. Congress should lend a helping hand and do all we can to help schools and communities across the country meet this challenge.

In Massachusetts, 41 percent of schools report that at least one building needs extensive repairs or should be replaced. 80 percent of schools report at least one unsatisfactory environmental factor. 48 percent have inadequate heating, ventilation, or air conditioning. And 36 percent report inadequate plumbing systems.

Last year, I visited Everett Elementary School in Dorchester. The school is experiencing serious overcrowding. The average class size is 28 students. The principal of the school gave up her office and moved into a closet in the hall in order to help accommodate rising enrollment. When the school wants to use the multi-purpose auditorium/library, the rolling bookcases are moved to the basement, and the library has to close for the rest of the day.

Two cafeterias at Bladensburg High School in Prince Georges County, Maryland were recently closed because they were infested with mice and roaches. A teacher commented, ''It's disgusting. It causes chaos when the mice run around the room.'' At an elementary school in Montgomery, Alabama, a ceiling which had been damaged by leaking water collapsed only 40 minutes after the children had left for the day.

Most of Los Angeles' school buildings are 30 to 70 years old. Enrollment rose from 539,000 in 1980 to 691,000 in 1998, an increase of 28 percent. District officials expect an additional 50,000 students over the next five years.

In Detroit, Michigan, over half—150 of the 263—school buildings were built before 1930. The average age is 61 years old, and some date to the 1800's. Detroit estimates that the city has $5 billion in unmet repair and new construction needs. Detroit voters approved a $1.5 billion, 15-year school construction program, but it's not enough.

New York City school enrollment has grown by 100,000 students, to a total of 1,083,000 since 1990. School officials expect up to an additional 90,000 students by 2004. P.S. 7 was built for 530 students, but 1,048 students are now enrolled. P.S. 108 was built for 280 students, however 808 students are now enrolled. New York City education officials have identified $7.5 billion in building needs.

Schools across the country are struggling to meet needs such as these, but they can't do it alone. The federal government should join with state and local governments and community organizations to ensure that all children have the opportunity for a good education in a safe and up-to-date school building.

Children need and deserve a good education in order to succeed in life. But they cannot obtain that education if school roofs are falling down around them, if sewage is backing up through faulty plumbing, if asbestos is flaking off the walls and ceilings, if schools lack computers and modern technology and classrooms are overcrowded. We need to help states and communities rebuild their crumbling schools, modernize old buildings, and expand facilities to accommodate reduced class sizes.

I urge my colleagues to support Senator HARKIN'S 21st Century Modernization Act. The time is now to do all we can to rebuild and modernize public schools, so that all children can learn in safe, well-equipped facilities.

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By Mr. McCAIN:

S. 1512. A bill to provide educational opportunities for disadvantaged children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

INTRODUCTION OF LEGISLATION REGARDING SCHOOL CHOICE

Mr. McCAIN. Mr. President, today, I am introducing legislation to authorize a three-year nationwide school choice demonstration program targeted at children from economically disadvantaged families. The program would expand educational opportunities for low-income children by providing parents and students the freedom to choose the best school for their unique academic needs, while encouraging schools to be creative and responsive to the needs of all students.

This legislation is identical to the school choice amendment which I offered on July 30, 1999 to S.1429, the Taxpayer Refund Act of 1999. I am gravely disappointed that the Senate failed to pass this amendment as a part of the Taxpayer Refund Act. However, I am committed to seeing it implemented before Congress adjourns this year and will be working with my colleagues on both sides of the aisle and on the Health, Education, Labor and Pensions Committee (HELP) to ensure that this measure is implemented before Congress adjourns, perhaps as a part of the legislation reauthorizing the Elementary and Secondary Education Act (ESEA).

This bill authorizes $1.8 billion annually for fiscal years 2001 through 2003 to be used to provide school choice vouchers to economically disadvantaged children through the nation. The funds would be divided among the states based upon the number of children they have enrolled in public schools. Then, each state would conduct a lottery among low-income children who attend the public schools with the lowest academic performance in their state. Each child selected in the lottery would receive $2,000 per year for three years to be used to pay tuition at any school of their choice in the state, including private or religious schools. The money could also be used to pay for transportation to the school or supplementary educational services to meet the unique needs of the individual student.

In total, this bill authorizes $5.4 billion for the three-year school choice demonstration program, as well as a GAO evaluation of the program upon its completion. The cost of this important test of school vouchers is fully offset by eliminating more than $5.4 billion in unnecessary and inequitable corporate tax loopholes which benefits the ethanol, sugar, gas and oil industries.

First, the legislation eliminates tax credits for ethanol producers, eliminating a $1.5 billion subsidy. Ethanol is an inefficient, expensive fuel that has not lived up to claims that it would reduce reliance on foreign oil or reduce impact on the environment. It takes more energy to produce a gallon of ethanol than the amount of energy that a gallon of ethanol contains. Ethanol tax credits are simply a subsidy for corn producers, and the amendment ends the taxpayers' support for this outdated program.

Second, the bill eliminates three subsidies enjoyed by the oil and gas industry, totaling $3.9 billion. It phases out oil and gas industry's special right to fully deduct capital costs for drilling, exploration and development; eliminates the 15 percent tax credit for recovering oil using particular methods; and ends special right of oil and gas property owners to claim unlimited passive losses under income and alternative minimum tax provisions. Subsidizing the cost of domestic production has not been shown to have reduced reliance on foreign oil or directly contributed to more efficient resource use or domestic productivity. This bill would end these special tax treatments.

Finally, this measure eliminates the special loan program for sugar producers and processors, worth $390 million. The federal government is burdened with an unnecessary and unprofitable loan program for bug sugar producers and enforcing mandated import

quotas on foreign sugar. Sugar price supports also force consumers to pay $1.4 billion every year in artificially inflated sugar prices. This bill simply eliminates the taxpayer-funded loan program in 2003 and immediately requires repayment of existing loans in case, rather than sugar.

These tax benefits and subsidies were originally intended to serve a limited purpose during times of economic recession and hardship in the 1970's. Our economy has long since recovered and I believe that these subsidies have outlived its purpose. The sunset of these programs will end these corporate welfare programs and return any remaining benefit back to our Nation's children.

Mr. President, we all know that one of the most important issues facing our nation is the education of our children. Providing a solid, quality education for each and every child in our nation is a critical component in their quest for personal success and fulfillment. A solid education for our children also plays a pivotal role in the success of our nation; economically, intellectually, civically and morally.

We must strive to develop and implement initiatives which strengthen and improve our education system thereby ensuring that our children are provided with the essential academic tools for succeeding professionally, economically and personally. I am sure we all agree that increasing the academic performance and skills of all our nation's students must be the paramount goal of any education reform we implement.

School vouchers are a viable method of allowing all American children access to high quality schools, including private and religious schools. Every parent should be able to obtain the highest quality education for their children, not just the wealthy. Tuition vouchers would finally provide low-income children trapped in mediocre, or worse, schools the same educational choices as children of economic privilege.

Some of my colleagues may argue that vouchers would divert money away from our nation's public schools and instead of instilling competition into our school systems we should be pouring more and more money into poor performing public schools. I respectfully disagree. While I support strengthening financial support for education in our nation, the solution to what ails our system is not simply pouring more and more money into it.

Currently our Nation spends significantly more money than most countries and yet our students scored lower than their peers from almost all of the forty countries which participated in the last Third International Mathematics and Science Study (TIMMS) test. Students in countries which are struggling economically, socially and politically, such as Russia, outscored U.S. children in math and scored far above them in advanced math and physics. Clearly, we must make significant changes beyond simply pouring more money into the current structure in order to improve our children's academic performance in order to remain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate training and quality academic preparation for the real world. The number of college freshman who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high. In fact, presently, more than 30 percent of entering freshman need to enroll in one or more remedial course when they start college. It does not bode well for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage public and private schools, communities and parents to all work together to raise the level of education for all students. Through this bill, we have the opportunity to replicate these important attributes throughout all our nation's communities.

Thomas Jefferson said, ''The purpose of education is to create young citizens with knowing heads and loving hearts.'' If we fail to give our children the education they need to nurture their heads and hearts, then we threaten their futures and the future of our nation. Each of us is responsible for ensuring that our children have both the love in their hearts and the knowledge in their heads to not only dream, but to make their dreams a reality.

The time has come for us to finally conduct a national demonstration of school choice to determine the benefits or perhaps disadvantages of providing educational choices to all students, not just those who are fortunate enough to be born into a wealthy family. I urge my colleagues to support this bill and put the needs of America's school children ahead of the financial gluttony of big business.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD.

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

S. 1512

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**TITLE I—EDUCATIONAL OPPORTUNITIES**

**SEC. 101. PURPOSES.**

The purposes of this title are—

(1) to assist States to—

(A) give children from low-income families the same choices among all elementary and secondary schools and other academic programs as children from wealthier families already have;

(B) improve schools and other academic programs by giving parents in low-income families increased consumer power to choose the schools and programs that the parents determine best fit the needs of their children; and

(C) more fully engage parents in their children's schooling; and

(2) to demonstrate, through a 3-year national grant program, the effects of a voucher program that gives parents in low-income families—

(A) choice among public, private, and religious schools for their children; and

(B) access to the same academic options as parents in wealthy families have for their children.

**SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title (other than section 110) $1,800,000,000 for each of fiscal years 2001 through 2003.

(b) EVALUATION.—There is authorized to be appropriated to carry out section 110 $17,000,000 for fiscal years 2001 through 2004.

**SEC. 103. PROGRAM AUTHORITY.**

(a) IN GENERAL.—The Secretary shall make grants to States, from allotments made under section 104 to enable the States to carry out educational choice programs that provide scholarships, in accordance with this title.

(b) LIMIT ON FEDERAL ADMINISTRATIVE EXPENDITURES.—The Secretary may reserve not more than $1,000,000 of the amounts appropriated under section 102(a) for a fiscal year to pay for the costs of administering this title.

**SEC. 104. ALLOTMENTS TO STATES.**

(a) ALLOTMENTS.—The Secretary shall make the allotments to States in accordance with a formula specified in regulations issued in accordance with subsection (b). The formula shall provide that the Secretary shall allot to each State an amount that bears the same relationship to the amounts appropriated under section 102(a) for a fiscal year (other than funds reserved under section 103(b)) as the number of covered children in the State bears to the number of covered children in all such States.

(b) FORMULA.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations specifying the formula referred to in subsection (a).

(c) LIMIT ON STATE ADMINISTRATIVE EXPENDITURES.—The State may reserve not more than 1 percent of the funds made available through the State allotment to pay for the costs of administering this title.

(d) DEFINITION.—In this section, the term ''covered child'' means a child who is enrolled in a public school (including a charter school) that is an elementary school or secondary school.

**SEC. 105. ELIGIBLE SCHOOLS.**

(a) ELIGIBILITY.—

(1) IN GENERAL.—Schools identified by a State under paragraph (2) shall be considered to be eligible schools under this title.

(2) DETERMINATION.—Not later than 180 days after the date the Secretary issues regulations under section 104(b), each State shall identify the public elementary schools and secondary schools in the State that are at or below the 25th percentile for academic performance of schools in the State.

(b) PERFORMANCE.—The State shall determine the academic performance of a school under this section based on such criteria as the State may consider to be appropriate.

**SEC. 106. SCHOLARSHIPS.**

(a) IN GENERAL.—

(1) SCHOLARSHIP AWARDS.—With funds awarded under this title, each State awarded a grant under this title shall provide scholarships to the parents of eligible children, in accordance with subsections (b) and (c). The State shall ensure that the scholarships may be redeemed for elementary or secondary education for the children at any of a broad variety of public and private schools, including religious schools, in the State.

(2) SCHOLARSHIP AMOUNT.—The amount of each scholarship shall be $2000 per year.

(3) TAX EXEMPTION.—Scholarships awarded under this title shall not be considered income of the parents for Federal income tax purposes or for determining eligibility for any other Federal program.

(b) ELIGIBLE CHILDREN.—To be eligible to receive a scholarship under this title, a child shall be—

(1) a child who is enrolled in a public elementary school or secondary school that is an eligible school; and

(2) a member of a family with a family income that is not more than 200 percent of the poverty line.

(c) AWARD RULES.—

(1) PRIORITY.—In providing scholarships under this title, the State shall provide scholarships for eligible children through a lottery system administered for all eligible schools in the State by the State educational agency.

(2) CONTINUING ELIGIBILITY.—Each State receiving a grant under this title to carry out an educational choice program shall provide a scholarship in each year of the program to each child who received a scholarship during the previous year of the program, unless—

(A) the child no longer resides in the area served by an eligible school;

(B) the child no longer attends school;

(C) the child's family income exceeds, by 20 percent or more, 200 percent of the poverty line; or

(D) the child is expelled or convicted of a felony, including felonious drug possession, possession of a weapon on school grounds, or a violent act against an other student or a member of the school's faculty.

**SEC. 107. USES OF FUNDS.**

Any scholarship awarded under this title for a year shall be used—

(1) first, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if the school is not the school to which the child would be assigned in the absence of a program under this title;

(2) second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents, that the State determines is capable of providing such services and has an appropriate refund policy; and

(3) finally, for educational programs that help the eligible child achieve high levels of academic excellence in the school attended by the eligible child, if the eligible child chooses to attend a public school.

**SEC. 108. STATE REQUIREMENT.**

A State that receives a grant under this title shall allow lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area involved to participate in the program.

**SEC. 109. EFFECT OF PROGRAMS.**

(a) TITLE I.—Notwithstanding any other provision of law, if a local educational agency in the State would, in the absence of an educational choice program that is funded under this title, provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the State shall ensure the provision of such services to such child.

(b) INDIVIDUALS WITH DISABILITIES.—Nothing in this title shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(c) AID.—

(1) IN GENERAL.—Scholarships under this title shall be considered to aid families, not institutions. For purposes of determining Federal assistance under Federal law, a parent's expenditure of scholarship funds under this title at a school or for supplementary academic services shall not constitute Federal financial aid or assistance to that school or to the provider of supplementary academic services.

(2) SUPPLEMENTARY ACADEMIC SERVICES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a school or provider of supplementary academic services that receives scholarship funds under this title shall, as a condition of participation under this title, comply with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) REGULATIONS.—The Secretary shall promulgate regulations to implement the provisions of subparagraph (A), taking into account the purposes of this title and the nature, variety, and missions of schools and providers that may participate in providing services to children under this title.

(d) OTHER FEDERAL FUNDS.—No Federal, State, or local agency may, in any year, take into account Federal funds provided to a State or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or to a school attended by such child.

(e) NO DISCRETION.—Nothing in this title shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this title.

**SEC. 110. EVALUATION.**

The Comptroller General of the United States shall conduct an evaluation of the program authorized by this title. Such evaluation shall, at a minimum—

(1) assess the implementation of educational choice programs assisted under this title and their effect on participants, schools, and communities in the school districts served, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of eligible children who use scholarships to attend schools other than the schools the children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

**SEC. 111. ENFORCEMENT.**

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this title.

(b) PRIVATE CAUSE.—No provision or requirement of this title shall be enforced through a private cause of action.

**SEC. 112. DEFINITIONS.**

In this title:

(1) CHARTER SCHOOL.—The term ''charter school'' has the meaning given the term in section 10310 of the Elementary and Secondary Education Act of 1965 (as redesignated in section 3(g) of Public Law 105–278; 112 Stat. 2687).

(2) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; PARENT; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''local educational agency'', ''parent'', ''secondary school'', and ''State educational agency'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(3) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(5) STATE.—The term ''State'' means each of the 50 States.

## TITLE II—REVENUE PROVISIONS

**SEC. 201. PHASEOUT OF OIL AND GAS EXPENSING OF DRILLING AND DEVELOPMENT COSTS.**

Section 263(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ''This subsection shall not apply to the applicable percentage of costs incurred in taxable years beginning after December 31, 1999. For purposes of the preceding sentence, the applicable percentage for any taxable year shall be determined in accordance with the following table:

| ''In the case of any taxable year beginning in— | The applicable percentage is— |
|---|---|
| 2000 | 20 |
| 2001 | 40 |
| 2002 | 60 |
| 2003 | 80 |
| After 2003 | 100.'' |

**SEC. 202. SUNSET OF ALCOHOL FUELS INCENTIVES.**

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each repealed:

(1) Section 40 (relating to alcohol used as fuel).

(2) Section 4041(b)(2) (relating to qualified methanol and ethanol).

(3) Section 4041(k) (relating to fuels containing alcohol).

(4) Section 4081(c) (relating to taxable fuels mixed with alcohol).

(5) Section 4091(c) (relating to reduced rate of tax for aviation fuel in alcohol mixture, etc.).

(6) Section 6427(f) (relating to gasoline, diesel fuel, kerosene, and aviation fuel used to produce certain alcohol fuels).

(7) The headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

(b) EFFECTIVE DATE.—The repeals made by subsection (a) shall take effect on October 1, 1999.

**SEC. 203. REPEAL OF ENHANCED OIL RECOVERY CREDIT.**

Section 43 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(f) TERMINATION.—In the case of taxable years beginning after December 31, 1999, the enhanced oil recovery credit is zero.''.

**SEC. 204. REPEAL OF UNLIMITED PASSIVE LOSS DEDUCTIONS FOR OIL AND GAS PROPERTIES.**

Section 469(c)(3) of the Internal Revenue Code of 1986 (relating to working interests in

oil and gas property) is amended by adding at the end the following:

''(C) TERMINATION.—This paragraph shall not apply with respect to any taxable year beginning after December 31, 1999.''

**SEC. 205. SUGAR PROGRAM.**

(a) ELIMINATION OF AUTHORITY TO USE SUGAR AS COLLATERAL FOR LOANS.—Section 156 of the Agricultural Market Transition Act (7 U.S.C. 7272) is amended—

(1) in subsection (d)—

(A) by striking ''(d)'' and all that follows through ''A loan under'' and inserting ''(d) TERM OF LOANS.—A loan under'';

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (g); and

(3) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) ELIMINATION OF SUGAR PRICE SUPPORT AND PRODUCTION ADJUSTMENT PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) a processor of any of the 2003 or subsequent crops of sugarcane or sugar beets shall not be eligible for a loan under any provision of law with respect to the crop; and

(B) the Secretary of Agriculture may not make price support available, whether in the form of a loan, payment, purchase, or other operation, for any of the 2003 and subsequent crops of sugar beets and sugarcane by using the funds of the Commodity Credit Corporation or other funds available to the Secretary.

(2) TERMINATION OF MARKETING QUOTAS AND ALLOTMENTS.—

(A) IN GENERAL.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

(B) CONFORMING AMENDMENT.—Section 344(f)(2) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1344(f)(2)) is amended by striking ''sugar cane for sugar, sugar beets for sugar,''.

(3) GENERAL POWERS.—

(A) DESIGNATED NONBASIC AGRICULTURAL COMMODITIES.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking ''milk, sugar beets, and sugarcane'' and inserting ''and milk''.

(B) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting after ''agricultural commodities'' the following: ''(other than sugar)''.

(C) SECTION 32 ACTIVITIES.—Section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), is amended in the second sentence of the first paragraph—

(i) in paragraph (1), by inserting ''(other than sugar)'' after ''commodities''; and

(ii) in paragraph (3), by inserting ''(other than sugar)'' after ''commodity''.

(4) TRANSITION PROVISIONS.—This subsection and the amendments made by this subsection shall not affect the liability of any person under any provision of law as in effect before the application of this subsection and the amendments made by this subsection.

(5) CROPS.—This subsection and the amendments made by this subsection shall apply beginning with the 2003 crop of sugar beets and sugarcane.

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By Mr. THOMPSON:

S. 1513. A bill for the relief of Jacqueline Salinas and her children Gabriela Salinas, Alejandro Salinas, and Omar Salinas; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. THOMPSON. Mr. President, today I rise to introduce legislation to grant permanent resident status to Gabriela Salinas, 11, her mother Jacqueline, and her brothers, Alejandro, 11, and Omar, Jr., 4, all of whom currently live in Tennessee. Although I am aware that private relief legislation is enacted only in rare cases, I believe that the extraordinary circumstances surrounding the Salinas family merit consideration of this bill.

In March of 1996, Gabriela, then seven, and her father Omar Salinas left their home in Bolivia and traveled to New York City to seek lifesaving treatment at Mt. Sinai Medical Center for Gabriela's rare bone cancer, ewing sarcoma. Gabriela, however, was denied treatment at Mt. Sinai because her family was unable to afford the $250,000 deposit required by the hospital.

Days later, Gabriela and her father were flown into Memphis, Tennessee, for treatment at the internationally renowned St. Jude Children's Hospital. Actress Marlo Thomas, whose father founded St. Jude, after hearing of the Salinas family's misfortunes, arranged for Gabriela to receive pro bono treatment at St. Jude. Shortly after Gabriela's chemotherapy treatment began, her mother, Jacqueline, and her three siblings joined her and her father in Tennessee. The family received an outpouring of sympathy and support from the Memphis community and looked forward to returning to Bolivia once Gabriela's treatment was completed.

Tragically, however, on April 14, 1997, prior to the end of Gabriela's treatment, Omar and Gabriela's 3-year old sister, Valentina, were killed in a car accident on their way back from Washington, D.C. to renew their passports. Jacqueline, seven months pregnant at the time, was permanently paralyzed from the waist down. This terrible tragedy generated national media coverage. As Jacqueline, who gave birth to a healthy baby boy two months later, had no other means of financial support, St. Jude Hospital generously stepped in to care for the family. The hospital, in fact, has made a commitment to provide full financial support for Jacqueline and her children to live permanently in the United States.

Because they do not meet the requirements for permanent residence under current immigration law, however, the Salinas family will be forced to leave the United States following the expiration of their tourist visas. Although Jacqueline's son, Danny, nearly two years old, is a U.S. citizen, he will not be qualified to sponsor his mother for permanent residence until he reaches the age of twenty-one. Despite her background in teaching, Jacqueline does not qualify for permanent residence under any of the employment-based visa categories. Therefore, private relief legislation is the only means by which the family will be able to remain permanently in the United States.

Gabriela and her family have suffered through a long and difficult ordeal. Yet, with the compassion, generosity, and support of the people of Tennessee and the nation, they have managed to start a new life. The family has settled into a new home in Memphis. The children attend school in the community. And Gabriela continues to be treated under the care of some of the best doctors in the world. With the expiration of their tourist visas approaching, it is my hope that we can act soon to prevent another tragic setback for the Salinas family. I ask my colleagues to join me in supporting this legislation.

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By Mr. CAMPBELL:

S. 1514. A bill to provide that countries receiving foreign assistance be conductive to United States business; to the Committee on Foreign Relations.

THE INTERNATIONAL ANTI-CORRUPTION ACT OF 1999

Mr. CAMPBELL. Mr. President, today I introduce the International Anti-Corruption Act of 1999 to address the growing problem of official and unofficial corruption abroad and the direct impact on U.S. business. This bill is based on S.1200, which I introduced in the 105th Congress.

As the Co-chairman of the Commission on Security and Cooperation in Europe, I intend to address this growing problem of corruption. Last month, I chaired a Commission hearing that focused on the issues of bribery and corruption in the OSCE region, an area stretching from Vancouver to Vladivostok. The Commission heard that, in economic terms, rampant corruption and organized crime in this vast region has cost U.S. businesses billions of dollars in lost contracts with direct implications for our economy.

Ironically, Mr. President, in some of the biggest recipients of U.S. foreign assistance—countries like Russia and Ukraine—the climate is either not conducive or outright hostile to American business. Last month, I also attended the annual session of the OSCE Parliamentary Assembly in St. Petersburg, Russia, where I had an opportunity to sit down with U.S. business representatives to learn, first-hand, the obstacles they face.

Mr. President, the time has come to stop providing aid as usual to those countries which line up to receive our assistance, only to turn around and fleece U.S. businesses conducting legitimate operations in these countries. For this reason, I am introducing the International Anti-Corruption Act of 1999 to require the State Department to submit a report and the President to certify by March 1 of each year that countries which are receiving U.S. foreign aid are, in fact, conducive to American businesses and investors. If a country is found to be hostile to American businesses, aid from the United States would be cut off. The certification would be specifically based on whether a country is making progress

in, and is committed to, economic reform aimed at eliminating corruption.

Under my bill, if the President certifies that a country's business climate is not conducive for U.S. businesses, that country will, in effect, be put on probation. The country would continue to receive U.S. foreign aid through the end of the fiscal year, but aid would be cut off on the first day of the next fiscal year unless the President certifies the country is making significant progress in implementing the specified economic indicators and is committed to recognizing the involvement of U.S. business.

My bill also includes the customary waiver authority where the national interests of the United States are at stake. For countries certified as hostile to or not conducive for U.S. business, aid can continue if the President determines it is in the national security interest of the United States. However, the determination expires after 6 months unless the President determines its continuation is important to our national security interest.

I also included a provision which would allow aid to continue to meet urgent humanitarian needs, including food, medicine, disaster and refugee relief, to support democratic political reform and rule of law activities, and to create private sector and nongovernmental organizations that are independent of government control, or to develop a free market economic system.

Mr. President, instead of jumping on the bandwagon to pump millions of additional tax dollars into countries which are hostile to U.S. businesses and investors, we should be working to root out the kinds of bribery and corruption that have an overall chilling effect on much needed foreign investment. Left unchecked, such corruption will continue to undermine fledgling democracies worldwide and further impede moves toward a genuine free market economy. I believe the legislation I am introducing today is a critical step this direction, and I urge my colleagues to support its passage.

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. 1514

*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 ''International Anti-Corruption Act of 1999''.

**SEC. 2. LIMITATIONS ON FOREIGN ASSISTANCE.**

(a) REPORT AND CERTIFICATION.—

(1) IN GENERAL.—Not later than March 1 of each year, the President shall submit to the appropriate committees a certification described in paragraph (2) and a report for each country that received foreign assistance under part I of the Foreign Assistance Act of 1961 during the fiscal year. The report shall describe the extent to which each such country is making progress with respect to the following economic indicators:

(A) Implementation of comprehensive economic reform, based on market principles, private ownership, equitable treatment of foreign private investment, adoption of a legal and policy framework necessary for such reform, protection of intellectual property rights, and respect for contracts.

(B) Elimination of corrupt trade practices by private persons and government officials.

(C) Moving toward integration into the world economy.

(2) CERTIFICATION.—The certification described in this paragraph means a certification as to whether, based on the economic indicators described in subparagraphs (A) through (C) of paragraph (1), each country is—

(A) conducive to United States business;

(B) not conducive to United States business; or

(C) hostile to United States business.

(b) LIMITATIONS ON ASSISTANCE.—

(1) COUNTRIES HOSTILE TO UNITED STATES BUSINESS.—

(A) GENERAL LIMITATION.—Beginning on the date the certification described in subsection (a) is submitted—

(i) none of the funds made available for assistance under part I of the Foreign Assistance Act of 1961 (including unobligated balances of prior appropriations) may be made available for the government of a country that is certified as hostile to United States business pursuant to such subsection (a); and

(ii) the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote against any loan or other utilization of the funds of such institution to or by any country with respect to which a certification described in clause (i) has been made.

(B) DURATION OF LIMITATIONS.—Except as provided in subsection (c), the limitations described in clauses (i) and (ii) of subparagraph (A) shall apply with respect to a country that is certified as hostile to United States business pursuant to subsection (a) until the President certifies to the appropriate committees that the country is making significant progress in implementing the economic indicators described in subsection (a)(1) and is no longer hostile to United States business.

(2) COUNTRIES NOT CONDUCIVE TO UNITED STATES BUSINESS.—

(A) PROBATIONARY PERIOD.—A country that is certified as not conducive to United States business pursuant to subsection (a), shall be considered to be on probation beginning on the date of such certification.

(B) REQUIRED IMPROVEMENT.—Unless the President certifies to the appropriate committees that the country is making significant progress in implementing the economic indicators described in subsection (a) and is committed to being conducive to United States business, beginning on the first day of the fiscal year following the fiscal year in which a country is certified as not conducive to United States business pursuant to subsection (a)(2)—

(i) none of the funds made available for assistance under part I of the Foreign Assistance Act of 1961 (including unobligated balances of prior appropriations) may be made available for the government of such country; and

(ii) the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote against any loan or other utilization of the funds of such institution to or by any country with respect to which a certification described in subparagraph (A) has been made.

(C) DURATION OF LIMITATIONS.—Except as provided in subsection (c), the limitations described in clauses (i) and (ii) of subparagraph (B) shall apply with respect to a country that is certified as not conducive to United States business pursuant to subsection (a) until the President certifies to the appropriate committees that the country is making significant progress in implementing the economic indicators described in subsection (a)(1) and is conducive to United States business.

(c) EXCEPTIONS.—

(1) NATIONAL SECURITY INTEREST.—Subsection (b) shall not apply with respect to a country described in subsection (b) (1) or (2) if the President determines with respect to such country that making such funds available is important to the national security interest of the United States. Any such determination shall cease to be effective 6 months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(2) OTHER EXCEPTIONS.—Subsection (b) shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs (including providing food, medicine, disaster, and refugee relief);

(B) democratic political reform and rule of law activities;

(C) the creation of private sector and nongovernmental organizations that are independent of government control; and

(D) the development of a free market economic system.

**SEC. 3. TOLL-FREE NUMBER.**

The Secretary of Commerce shall make available a toll-free telephone number for reporting by members of the public and United States businesses on the progress that countries receiving foreign assistance are making in implementing the economic indicators described in section 2(a)(1). The information obtained from the toll-free telephone reporting shall be included in the report required by section 2(a).

**SEC. 4. DEFINITIONS.**

In this Act:

(1) APPROPRIATE COMMITTEES.—The term ''appropriate committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) MULTILATERAL DEVELOPMENT BANK.—The term ''multilateral development bank'' means the International Bank for Reconstruction and Development, the International Development Association, and the European Bank for Reconstruction and Development.

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By Mr. HATCH (for himself, Mr. DASCHLE, Mr. CAMPBELL, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1515. A bill to amend the Radiation Exposure Compensation Act, and for other purposes; to the Committee on Health, Education, Labor, and pensions.

RADIATION EXPOSURE COMPENSATION ACT AMENDMENTS OF 1999

Mr. HARKIN. Mr. President, I rise to introduce the ''Radiation Exposure Compensation Act Amendments of 1999,'' known as RECAA 1999. I am pleased to be joined by Senator BEN NIGHTHORSE CAMPBELL; the distinguished Senate Minority Leader, Senator TOM DASCHLE; Senator JEFF BINGAMAN; and Senator PETE DOMENICI in introducing this legislation.

These long awaited amendments will ensure that the United States government meets its responsibility to provide fair and compassionate compensation to the thousands of individuals adversely affected by the mining of uranium and from fallout during the testing of nuclear weapons in the early post-war years. These citizens helped our nation during the Cold War and we must not forget them.

In 1990, the Radiation Exposure Compensation Act (42 U.S.C. 2210) was enacted. RECA, which I was proud to sponsor, affirmed the responsibility of the federal government to compensate individuals who were harmed by the radioactive fallout from atomic testing, for which the government took few precautions to ensure safety. Additionally, workers who have suffered long-term health problems because they were not adequately informed of the dangers faced during uranium mining were eligible for compensation under the act.

Administered through the Department of Justice, RECA has been responsible for compensating approximately 6,000 individuals for their injuries, but we can and should help a lot more. While the passage of the 1990 law was a momentous event, I have been carefully monitoring the implementation of the RECA program.

I am disturbed over numerous reports from my Utah constituents concerning the burdensome process of filing claims with the Department of Justice. One complaint which I hear far too often is ''that it is easier to compensate a dead miner, than one living with disease.'' We cannot let this injustice continue. We have drafted the RECA Amendments of 1999 in response to these concerns.

We should not add a bureaucratic nightmare to the burden of disease and ill-health already carried by these citizens. Moreover, excessive regulatory hurdles have made it too difficult for some deserving individuals to be fairly compensated under the Act. We must streamline and speed up the application process. In addition, advances in our medical knowledge compel us to modify the 1990 Act to define better criteria for compensation and to include diseases that we now know have radiogenic causes.

Let me explain how this bill was developed. RECA originally defined a list of 13 compensable diseases based upon the 1988 Radiation Exposed Veterans Compensation Act and the findings of the 1980 report of the Committee on the Biological Effects of Ionizing Radiations (BEIR–III). In 1992, REVCA was amended based upon the findings of an updated BEIR–IV and –V Reports which defined a host of cancers that are considered for disability compensation due to radiation exposure.

In addition, the report of the President's Advisory Committee on Human Radiation Experiments, released in 1995, provides further scientific evidence for changes in the 1990 RECA law. The Committee reviewed 125 current studies and more than 200 public witnesses in evaluating the risks and diseases caused by exposure to radiation conducted in the Cold War period. The conclusions of the advisory committee report support the reduction in radiation level exposure, the elimination of distinction between smokers and nonsmokers for lung cancer, and the inclusion of other radiogenic diseases.

Based on the evidence in both the President's Advisory Committee and the BEIR–V Committee Reports, we have extended the number of eligible radiogenic pathologies by six to include: lung, brain, colon, ovary, bladder, and salivary gland cancers. In addition, specific non-cancer diseases, such as silicosis, have been incorporated. Adding these diseases, which have been documented by science as linked to radiation exposure, will more fairly compensate our fellow citizens who were exposed to this danger so long ago.

With the inclusion of these modifications, miners, millers, and uranium ore transporters will be eligible in 11 western states to seek equitable compensation for their sacrifice in our nation's effort to produce our nuclear defense arsenal. I have worked with Senators DASCHLE, CAMPBELL, and BINGAMAN in reviewing Atomic Energy Commission records to document the uranium/vanadium mines supported by the U.S. government during and after the Manhattan Project. Eleven western states were found to have mines dating from 1947 through 1970 from which the U.S. government purchased radioactive ore.

Furthermore, uranium mills in these areas testify to the need to include millers who were exposed to radioactive decay without the benefit of state or government-instituted safety precautions. The report ''Raw Materials Activities of the Manhattan Project on the Colorado Plateau,'' by William Chenoweth, a noted geologist, documents the tragedies of exposure endured by miners, millers, and ore transporters as they extracted, prepared and moved the radioactive ore for use in the nuclear arsenal. These changes would enable an estimated 6,000 individuals harmed by exposure to uranium radiation to seek compensation.

Of the thousands affected by radiation exposure, many of the downwinders, miners and millers were members of Indian tribes. Particularly noteworthy was the large number of U.S. atomic energy mines on Native American reservations. Many of these miners were not aware of the dangers that radiation exposure can cause, and the government did little to inform them of the risks. After RECA 1990 was passed into law, many complications have hindered members of Indian tribes from seeking their compensation. In working with the members of the Navajo Nation and other Native American tribes, we have developed legislation that largely addresses their concerns. The bill also instructs the Attorney General to take into account and make appropriate allowances for the laws, traditions, and customs of Indian tribes.

Finally, my bill also contains a grant program designed to provide for the early detection, prevention and education on radiogenic diseases. These programs will screen for the early warning signs of cancer, provide medical referrals, educate individuals on radiogenic cancers as well as prevention, and facilitate documentation of RECA claims. These grants will be available to a wide range of health care providers including: cancer centers, hospitals, Veterans Affairs medical centers, community health centers, and state departments of health.

Some may question the cost of our legislation. Let me set the record straight. The Congressional Budget Office estimates that the bill will cost close to $1 billion over the next 21 years. That averages out to just over $47 million a year. This estimate is significantly lower than other proposals that have been considered by Congress over the past several years. Ours is, I believe, a common sense approach that keeps to the intent of the original statute.

But, Mr. President, in considering the cost, it is important to remember what prompted the original statute. What justified this compensation program in the first place? The answer is that the federal government during the early years of the atomic testing program, exposed American citizens—our neighbors—to deadly nuclear fallout. Knowing that there would be adverse effects of exposure to fallout, the government exploded these bombs so that the fallout would blow ''downwind'' of the more heavily populated cities. There was no warning or instruction about minimizing exposure for the citizens in these rural areas. In my view, Mr. President, this bill is only fair and just. If we fail to provide even basic compensation for the hardships they have endured, we will *still* be taking them for granted.

I ask my colleagues to join me and Senators DASCHLE, CAMPBELL, BINGAMAN, and DOMENICI in meeting our nation's commitment to the thousands of individuals who were victims of radiation exposure while supporting our country's national defense. I believe we have an obligation to care for those who were injured, especially since, at the time, they were not adequately warned about the potential health hazards involved with their work. Now is our chance to compensate these men and women for their injuries. I urge my colleagues to support these Americans by cosponsoring the Radiation Exposure Compensation Act Amendments of 1999.

Mr. DASCHLE. Mr. President, today I am delighted to join in the introduction of the ''Radiation Exposure Compensation Act Amendments of 1999.''

For the last year, I have been working to extend the benefits of the Radiation Exposure Compensation Act (RECA) to South Dakotans who worked in uranium mines and a uranium mill in western South Dakota. This legislation would accomplish that goal, and I am very grateful to Senator HATCH for his hard work on this issue.

In the 9 years since the passage of RECA, we have had time to reflect upon its strengths and its shortcomings. During that time, it has become overwhelmingly clear that we have not fully met our obligation to victims of our nuclear program. Most seriously, we have arbitrarily and unfairly limited compensation for underground miners to those in only five States, despite the fact that underground miners in other states such as South Dakota faced exactly the same risk to their health. This fact alone requires us to amend RECA so that we can right this wrong.

However, we have also excluded other groups of workers, and their surviving families, from compensation for serious health problems and, in some cases, deaths, that have resulted from their work to help defend our Nation. Many of those who worked in uranium mills have developed serious respiratory problems as a result of exposure to uranium dusts and silica. Similar concerns have been raised about above-ground miners and uranium transportation workers as well.

This legislation would address those shortcomings and ensure that those who have suffered health problems because the government failed to warn them about the hazards of working with uranium are compensated. It is my hope that Congress will act on it this session so that we can provide compensation to these workers as quickly as possible.

There is one issue I hope we can address when this bill is considered in committee. Earlier this summer, I hosted a meeting of former uranium workers in Edgemont, SD. The most pressing concern of many of them was their inability to purchase affordable, quality health insurance due to the serious, ongoing health problems many of them have as a result of their work. Even if compensated by the Federal Government, they fear they are only one hospital stay away from bankruptcy. I hope that I can work with my colleagues over the next several months to determine how we can ensure that these workers, who sacrificed their health for their country, have access to affordable health insurance.

Finally, I have noted in the past the difficulty of tracking down documentation about South Dakota's uranium mining and milling activities. For that reason, I ask unanimous consent that a letter from the South Dakota Department of Environment and Natural Resources and a letter from the South Dakota School of Mines and Technology on this issue be printed in the RECORD.

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

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,
*Pierre, SD, January 26, 1999.*

Hon. TOM DASCHLE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DASCHLE: Peter Hanson of your office requested that this letter be sent to you regarding past uranium mining activities in South Dakota. Both underground and surface uranium mining activities took place in South Dakota a few decades ago. While we can confirm that these activities took place, it is important to point out that South Dakota did not have a mining regulatory program during the years uranium mining took place. Therefore, there are no detailed records or statistical information in our files. Certain staff members have mainly collected the documents in our office as a result of interest in the subject. The information below is excerpted from some of these documents.

Uranium deposits of economic significance were discovered in 1951 in Fall River County, South Dakota, in what became know as the Edgemont mining district. Prospecting quickly intensified and by 1953 production of uranium ore increased to the point that the U.S. Atomic Energy Commission established a buying station in Edgemont. In 1956, a mill for processing uranium ore was completed in Edgemont. Commercial uranium deposits were also discovered in lignite beds of Harding County in 1954.

According to our records, including Mullen and Agnew (1959) and Bieniewski and Agnew (1964), production of uranium ore occurred in Fall River and Harding Counties, as well as some production in Custer, Lawrence, and Pennington Counties (and an ''unknown'' county).

The number of producing properties varied through the years. Bieniewski and McGregor (1965) indicate that in 1963 production of uranium ore was attributed to 37 operations, 19 of which were in Fall River County, 14 in Harding County, 3 in Custer County, and 1 in Pennington County. Production of ore reached a peak in 1964 (with 110,147 short tons of uranium ore produced) and then declined greatly in the late 1960's (USGS, 1975 and Stotelmeyer, et al., 1966). According to Stotelmeyer, et al. (1967), it appears that there were 49 uranium mining operations in 1964, 29 of which were in Fall River County, 15 in Harding County, and 5 in Custer County.

The mill at Edgemont stopped producing uranium concentrates in 1972. By the end of 1973, nearly one million tons of uranium ore containing about 3,200,000 pounds of $U_3O_8$ were produced from deposits in South Dakota (USGS, 1975).

Our records are very sketchy regarding the number of uranium mine employees. Bieniewski and Agnew (1964) indicate that the average number of men employed in uranium mines and mills in 1961 was 104, excluding officeworkers. A total of 204,216 man-hours were worked in 1961. There were 23 uranium mine and mill operations that year. There were 10 nonfatal injuries in 1961, which equated to a frequency rate of 49 injuries per million man-hours (Bieniewski and Agnew, 1964).

In 1962, preliminary figures indicated that the average number of men employed was 103. A total of 202,062 man-hours were worked in 1962. There were 20 operations that year. There were 16 nonfatal injuries in 1962, which equated to a frequency rate of 79.1 injuries per million man-hours (Bieniewski and Agnew, 1964).

We were unable to locate uranium employment statistics for other years. I wouldn't be surprised if there were more uranium mine employees in other years than those referenced in the 1961–1962 statistics above, such as during the peak production year of 1964.

We have provided Peter Hanson with some information and references on the subject. Among other things, that information includes reference citations to several documents, publications, and maps that refer to uranium mining and uranium deposits in South Dakota, some of which are referenced here. We also sent the web address of our department's web page on Inactive and Abandoned Mines in the Black Hills http://www.state.sd.us/denr/DES/mining/acidmine.htm

The names of some of the uranium mines are shown on the maps referred to above. If you would like copies of these maps, or of any of the other documents cited in the information sent to Mr. Hanson, please let us know.

You may wish to contact Dr. Arden Davis and Dr. Kate Webb at the South Dakota School of Mines and Technology for further information on uranium mining and abandoned uranium mines in South Dakota.

If you have any questions or need further assistance, please contact Tom Durkin with the Minerals and Mining Program at 605–773–4201.

Sincerely,

NETTIE H. MYERS,
*Secretary.*

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SOUTH DAKOTA SCHOOL OF MINES AND TECHNOLOGY,
*Rapid City, SD, January 8, 1999.*

Senator TOM DASCHLE,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR DASCHLE: This letter is to provide a brief background on uranium mining in South Dakota as well as documentation of underground uranium mining activity within the state. Mr. Peter Hanson of your office contacted us earlier this week about this subject. Dr. Cathleen Webb and I have conducted inventories of abandoned mines in the Black Hills area for the U.S. Forest Service and for the South Dakota Department of Environment and Natural Resources, so we are familiar with uranium mines in the western part of the state.

Uranium deposits were discovered in the southern Black Hills of South Dakota in 1951. By 1953, the former U.S. Atomic Energy Commission had established a station at Edgemont in Fall River County. A mill for processing uranium in Edgemont was completed in 1956. This mill served open-pit and underground mining operations in the southern Black Hills area. Uranium also was mined in Harding County, South Dakota.

Production of uranium ore in South Dakota reached its peak in 1964, according to the U.S. Geological Survey. In the late 1960's, production declined after federal price supports were eliminated and supply exceeded demand. The mill at Edgemont ceased production of uranium concentrates in 1972 and was de-commissioned in the 1980's. Most uranium mines in the Black Hills have been inactive or abandoned since the late 1960's or early 1970's.

Information from the former U.S. Atomic Energy Commission and the U.S. Geological Survey shows that nearly one million tons of uranium ore were mined in South Dakota from 1953 to 1972. More than one hundred mines operated at one time or another in the Edgemont area, although in some cases several claims were consolidated later into a single mine. Much of the mining was from open pits, but at least 22 mines had underground workings. These mines are listed

below. Photographs of some of these mine openings are reproduced on an enclosed page.

We hope this information will be helpful. If you have any questions, please feel free to contact us.

Sincerely,

ARDEN D. DAVIS,
*Professor of Geological Engineering.*
CATHLEEN J. WEBB,
*Associate Professor of Chemistry.*

Mr. CAMPBELL. Today I join my colleague, Senator HATCH, in introducing the Radiation Exposure Compensation Act Amendments of 1999. These amendments, which are desperately needed, will help to provide much needed relief and assistance to many victims of uranium exposure and make this Act more consistent with current medical knowledge.

From 1946 to 1971, the United States purchased domestically-mined uranium for our nuclear weapons arsenal. Many of these mines were located in western Colorado, affecting citizens in my state. With the uranium mined there, in my colleague's state of Utah and throughout the western United States, we were able to develop vast stores of nuclear weapons, which were the key to our national security. The cold war demanded that we keep producing these weapons in order to keep up with, and defend ourselves against, the former Soviet Union. It was not until many years later that scientists began to realize that, ironically, the uranium we were mining to help create weapons to protect us in a nuclear war, was actually killing those men who mined it. Also harmed were those brave men and women who participated in atmospheric tests of the weapons armed with the uranium.

By 1971, the Atomic Energy Commission had put in place, and fully implemented, ventilation and safety procedures which greatly reduced the threat of radiation exposure. But for those miners and test-site participants who were involved in the atomic weapons program in the years before the changes, there was little more available for them than a kind word and pat on the back as they developed cancer and other diseases.

In 1990, we took steps to change the way we treated these victims. I cosponsored a measure in the House which allowed victims of certain types of radiation exposure to file claims with the Department of Justice and collect up to $100,000 in damages. It was the first step toward acknowledging the unknown sacrifice many of those miners and test participants made to win the cold war.

With the passage of the law, the Committee on the Biological Effects of Ionizing Radiation (BEIR) began further researching the health effects of radiation exposure. Their studies have revealed that several other types of cancer and nonmalignant respiratory diseases are caused by exposure to radiation, in addition to those listed in the original act. Furthermore, the BEIR Committee has discovered that many of the factors we thought contributed to cancer, such as coffee consumption, actually have no effect. Additionally, the unnecessarily long length of exposure, sometimes as high as 500 working level months, was determined by experts to be excessive and difficult to accurately measure and prove. The findings of the BEIR Committee have led us to seek to update the original law, with the advice and input of many experts in the health and mining fields, by amending the act with the latest scientific research.

It's time to finish what we started in the 1990 act. These victims need to be treated fairly and receive adequate care. We also owe it to the other people who worked with uranium to continue studying the effects of their contribution on their health. That's why this bill expands coverage to other uranium victims and establishes grant programs for education and the prevention and early detection of radiogenic diseases.

I ask my colleagues to join us today in making good on our promise to these people who so dutifully served their nation.

Mr. DOMENICI. Mr. President, I rise today as a co-sponsor of this important bill to make some much needed changes to the Radiation Exposure Compensation Act. I am pleased to join my colleagues, including the chairmen of the Senate Judiciary and Indian Affairs Committees, in support of this legislation.

Mr. President, my home state of New Mexico is the birthplace of the atomic bomb. New Mexico's national laboratories have long been involved in developing and testing nuclear weapons. One of the unfortunate consequences of our country's rapid development of its nuclear arsenal was that many of those who worked in the earliest uranium mines, prior to the implementation of government health and safety standards in 1971, became afflicted with terrible illnesses.

I began to notice this problem more than 20 years ago, when I learned that miners had contracted an alarmingly high rate of lung cancer and other diseases commonly related to radiation exposure.

Many of the miners native Americans, mostly members of the Navajo Nation, with whom the U.S. Government has had a longstanding trust relationship based on the treaties and agreements between our country and the tribes. Some 1,500 Navajos worked in the uranium mines from 1947 to 1971. Many of them have since died of radiation-related illnesses.

All of the uranium miners, including the Navajos, performed a great service out of patriotic duty to this country. Their work helped us to win the cold war. Unfortunately, our Nation failed to fulfill its duty to protect the miners' health and some 20 years ago, I began the effort to see that the miners and their families received just compensation for their illnesses.

In 1978, in the 95th Congress, I introduced the first bill to compensate uranium miners who contracted radiation-related diseases. The bill was called the Uranium Miners Compensation Act, and it was the predecessor to the Radiation Exposure Compensation Act (RECA) which is law today.

The following year in 1979, I held the first field hearing on this issue in Grants, NM, to learn about the concerns and the health problems faced by uranium miners. In later years, I traveled to Shiprock, NM, and the Navajo Nation Indian Reservation to gather more information about the uranium mines and their families.

Twelve years after I introduced that first bill, President Bush signed RECA into law. At the time, RECA was intended to provide fair and swift compensation for those miners and downwinders who had contracted certain radiation-related illnesses.

Since the RECA trust fund began making awards in 1992, the Department of Justice has approved a total 3,135 claims valued at nearly $232 million. In my home state of New Mexico, there have been 371 claims approved with a value of nearly $37 million. For that work, the Department of Justice is to be commended.

The original RECA was a compassionate law which unfortunately has come to be administered in a bureaucratic, dispassionate and often unfair manner. Many claims have languished at the Department of Justice for far too long.

Miners and their families, particularly Navajos, often have waited many years for their claims to be processed. Many claims were denied because the miners were smokers and could not prove that their diseases were related solely to uranium mining. In other cases, miners faced problems establishing the requisite amount of working level months needed to make a successful claim. Native American claims by spousal survivors often were denied because of difficulties associated with documenting native American marriages.

This bill makes some important, common sense changes to the radiation compensation program to address the problems I have outlined. First, it expands the list of compensable diseases to include new cancers, including leukemia, thyroid, and brain cancer. It also includes certain noncancer diseases, including pulmonary fibrosis. Medical science has been able to link these diseases to uranium mining in the 10 years since the enactment of the original RECA. We now know that prolonged radiation exposure can cause many additional diseases. This bill uses the best available science to make sure that those who were injured by radiation exposure are compensated.

The bill also extends eligibility to above-ground and open-pit miners, millers and transport workers. The latest science tells us that the risks of disease associated with radiation exposure were not necessarily limited to those who worked in unventilated mines.

Most importantly, the bill requires the Department of Justice to take native American law and customs into account when deciding claims. I have heard countless stories about the inequities faced by the spouses of Navajo miners who have been unable to successfully document their traditional tribal marriages to the satisfaction of the Justice Department under current law and regulations. This bill will change that, and make it easier for spousal survivors to make successful claims.

Mr. President, I am pleased to cosponsor this important legislation. The Congressional Budget Office estimates that the bill will cost close to $1 billion over the next 21 years. That is far less than some of the other proposals floated in the House and Senate during the past few years. This is a commonsense approach, which addresses many of the problems with the existing program, without unnecessarily expanding the scope of the Radiation Exposure compensation Act. The chairman of the Senate Judiciary Committee has done a fine job crafting this bill and I have been pleased to work with him in that regard. I look forward to helping move this bill through the Senate.

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By Mr. THOMPSON (for himself and Mr. LIEBERMAN):

S. 1516. A bill to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes; to the Committee on Governmental Affairs.

LEGISLATION TO RE-AUTHORIZE THE EMERGENCY FOOD AND SHELTER PROGRAM

Mr. LIEBERMAN. Mr. President, I am proud to join Chairman THOMPSON in introducing a bill that will re-authorize a small but highly effective program, the Emergency Food and Shelter Program, or EFS for short. The EFS program, which is administered by the Federal Emergency Management Agency, supplements community efforts to meet the needs of the homeless and hungry in all fifty states. I am pleased that my friend, Chairman THOMPSON, is sponsoring this legislation. Our Committee on Governmental Affairs has jurisdiction over the EFS program, and it is my hope that together we can generate even more bipartisan support for a program that makes a real difference with its tiny budget. The EFS program is a great help not only to the Nation's homeless population but also to working people who are trying to feed and shelter their families at entry-level wages. Services supplemented by the EFS funding, such as food banks and emergency rent/utility assistance programs, are especially helpful to families with big responsibilities but small paychecks.

One of the things that distinguishes the EFS program is the extent to which it relies on non-profit organizations. Local boards in counties, parishes, and municipalities across the country advertise the availability of funds, decide on non-profit and local government agencies to be funded, and monitor the recipient agencies. The local boards, like the program's National Board, are made up of charitable organizations including the National Council of Churches, the United Jewish Communities, Catholic Charities, USA, the Salvation Army, and the American Red Cross. By relying on community participation, the program keeps administrative overhead to an unusually low amount, less than 3%.

The EFS program has operated without authorization since 1994 but has been sustained by annual appropriations. The proposed bill will re-authorize the program for the next three years. It will also authorize modest funding increases over the amounts appropriated in recent years. From 1990 the EFS program was funded at approximately $130 million annually, but that number was cut back by appropriators in fiscal year 1996 and has held steady at $100 million since then. Creeping inflation has taken an additional bite: $130 million in 1990 dollars is equivalent to $165.6 million today. The draft legislation will authorize increases to $125 million in the coming fiscal year and an additional five million dollars each of the following two years. Although the increases will not bring the program's funding up to its previous levels, they will provide additional aid to community-based organizations struggling to meet the needs of the homeless and working poor in an era of steep budget cuts.

In summary, Mr. President, FEMA's Emergency Food and Shelter Program is a highly efficient example of the government relying on the country's non-profit organizations to help people in innovative ways. The EFS program aids the homeless and the hungry in a majority of the nation's counties and in all fifty states, and I ask my colleagues to support this program and our re-authorizing legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill war order to be printed in the RECORD, as follows:

S. 1516

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION OF APPROPRIATIONS.**

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

**"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this title $125,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, and $135,000,000 for fiscal year 2002.''.

**SEC. 2. NAME CHANGE TO NOMINATING ORGANIZATION.**

Section 301(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331(b)) is amended by striking paragraph (5) and inserting the following:

''(5) United Jewish Communities.''.

**SEC. 3. PARTICIPATION OF HOMELESS INDIVIDUALS ON LOCAL BOARDS.**

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended by striking paragraph (6) and inserting the following:

''(6) guidelines requiring each local board to include in their membership not less than 1 homeless individual, former homeless individual, homeless advocate, or recipient of food or shelter services, except that such guidelines may waive such requirement for any board unable to meet such requirement if the board otherwise consults with homeless individuals, former homeless individuals, homeless advocates, or recipients of food or shelter services.''.

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By Mr. ALLARD:

S. 1517. A bill to amend title XVIII of the Social Security Act to ensure that Medicare beneficiaries have continued access under current contracts to managed health care by extending the Medicare cost contract program for 3 years.

THE MEDICARE COST CONTRACT EXTENSION ACT

• Mr. Allard. Mr. President, I am pleased to rise today to introduce the Medicare Managed Care Cost Contract Extension Act of 1999.

The Medicare Program traditionally offers participating HMOs two contracts to choose from: Medicare risk (Medicare+Choice) and Medicare cost. In an effort to expand and refine the Medicare+Choice program, Section 4002 of the Balanced Budget Act of 1997 terminates the Medicare cost contract program effective December 31, 2002. This termination of cost contracts will leave two options for a Medicare recipient, that of traditional Medicare fee-for-service and Medicare+Choice.

As of June of this year 358,658 Americans receive Medicare HMO service through Medicare cost contracts. The vast majority of these Americans live in rural areas where there are no Medicare+Choice options. In my house state of Colorado, 97 percent of Medicare cost contracting beneficiaries live in a county that does not currently have another Medicare HMO option. If the intention of the Balanced Budget Act and Medicare+Choice is to provide a standard, reliable option to Medicare fee-for-service coverage it has not yet accomplished this in rural areas. It appears to me that until Medicare+Choice coverage is available to rural cost contract recipients Congress should re-consider this sunset.

While I agree with the wisdom of the Balanced Budget Act, we have discovered a number of areas where the Act has not produced the results that Congress intended. As well meaning as the sunset provision for cost contracts may have been, I am confident that Congress has no intention of leaving rural Americans without a choice in their Medicare coverage.

The legislation I am introducing will postpone the sunset date by three years to December 31, 2005. I believe that this extension accomplishes a

number of things consistent with the Balanced Budget Act as it concerns cost contracting.

The Medicare Managed Care Cost Contract Extension Act of 1999 will not change current requirement that the Health Care Financing Administration produce a study on the impact of cost contracting termination. This study is currently due in January 2001. I think it is important that this report be delivered to Congress while there is still time to establish a permanent extension or another sensible solution that will maintain choice for Medicare recipients.

As we have seen in my home state of Colorado, Medicare+Choice options have not developed in rural areas currently served by Medicare cost contractors. The Balanced Budget Act may have intended to replace cost contracting services with Medicare+Choice options, but these options are not yet available. I believe it would be irresponsible to continue to move cost contract beneficiaries toward an option that is unavailable. If Medicare+Choice can effectively serve rural areas they should have time to establish themselves. Based on current trends in rural health care I do not believe that Medicare+Choice will be a viable option in 2002, and perhaps not any time in the foreseeable future.

I believe that Medicare beneficiaries deserve a choice in how they receive their health care, and for a few people in our nation the only nation to Medicare fee-for-service is through a cost contract. I hope that as we consider various proposals for Medicare reform that we will consider the 358,658 Americans who are facing the elimination of the Medicare option they chose to provide their health care.

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By Mr. BAYH:

S. 1518. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit to long-term caregivers; to the Committee on Finance.

EDUCATIONAL TAX RELIEF FOR AMERICAN WORKERS

• Mr. BAYH. Mr. President, I am pleased to introduce legislation today that will help thousands of American workers with the financial burden associated with sending a daughter or son to college. In this climate of labor shortages, U.S. companies are looking for innovative ways to maintain and attract a dedicated and qualified workforce. Some companies have creatively turned to providing college scholarships for their employees' children. My legislation would allow employees to deduct these scholarships from their gross income. Under current law, an employee generally is not taxed on post-secondary education assistance provided by an employer for the benefit of the employee. My bill would extend this treatment to employer-provided education assistance for the employees' children, up to $2,000 per child.

As many of my colleagues know, employer-provided education assistance is considered an integral tool in keeping America's workforce well trained and equipped to deal with the changing face of the New Economy. Current law not only allows companies to keep an up-to-date labor pool, but also allows many workers to move from low-wage, level positions up the economic ladder of success. Extending tax-free treatment to the children of employees not only will help working families, but will contribute to our nation's competitiveness in an increasingly dynamic global economy.

My legislation is very simple. It allows employees whose companies provide educational scholarships for employees' children to exclude up to $2000 from gross income per child. An employee may not exclude more than $5,250 from gross income for employer education assistance. This is the limit established under Section 127(a)(2) of the Internal Revenue Code for employer education assistance. In essence, there would be ''family cap.'' Workers could deduct a $2,000 scholarship for their child and could also exclude up to $3,250 of educational benefits for themselves, however, the combined amounts could not exceed $5,250.

I believe that Congress should do all it can to help families with the soaring costs of higher education. In today's economy, American companies are no longer looking purely for a high-school diploma, but require that their workers have some sort of post-secondary education or training. Many working families struggle in providing this basic start which will help their children get well-paying jobs.

This piece of legislation is also a modest proposal. The Joint Committee on Taxation has scored this provision at $231 million over 10 years. I look forward to working with my colleagues in making sure that this provision is fully offset in a responsible manner.

Mr. President, I am pleased to lend my name to this initiative, for this legislation has been already introduced in a bi-partisan manner in the United States House of Representatives by Representatives LEVIN and ENGLISH. This bill has the support of over 60 Members of the House and I plan on working to ensure that this bill receives the same sort of bipartisan support that its companion in the House enjoys.•

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By Mr. SMITH of Oregon (for himself, Mrs. BOXER, Mr. GRAMS, and Mr. DODD):

S. 1520. A bill to amend the U.S. Holocaust Assets Commission Act of 1998 to extend the period by which the final report is due and to authorize additional funding; to the Committee on Banking, Housing, and Urban Affairs.

U.S. HOLOCAUST ASSETS COMMISSION EXTENSION ACT OF 1999

Mr. SMITH of Oregon. Mr. President and Members of the Senate, next week our Nation will pass an important if unnoticed anniversary—the anniversary of one of the first official notifications we were given of the atrocities of the Holocaust.

On August 8, 1942, Dr. Gerhart Reigner, the World Jewish Congress representative in Geneva, sent a cable to both Rabbi Stephen Wise—the President of the World Jewish Congress—and a British Member of Parliament. In it, Dr. Reigner wrote about ''an alarming report'' that Hitler was planning that all Jews in countries occupied or controlled Germany ''should after deportation and concentration . . . be exterminated at one blow to resolve once and for all the Jewish question in Europe.'' Our Government's reaction to this news was not our greatest moment during that terrible era.

First, the State Department refused to give the cable to Rabbi Wise. After Rabbi Wise got a copy of the cable from the British, he passed it along to the Undersecretary of State, who asked him not to make the contents public until it could be confirmed. Rabbi Wise didn't make it public, but he did tell President Roosevelt, members of the cabinet, and Supreme Court Justice Felix Frankfurter about the cable. None of them chose to act publicly on its contents.

Our government finally did acknowledge the report some months later, but the question remains: how many lives could have been saved had we responded to this clear warning of the Holocaust earlier and with more vigor? The questions of how the United States responded to the Holocaust and, specifically, what was the fate of the Holocaust victims' assets that came into the possession or control of the United States government, is the focus of the Presidential Advisory Commission on Holocaust Assets in the United States, of which I am a member.

This bipartisan Commission—chaired by Edgar M. Bronfman—is composed of 21 individuals, including four Senators, four Members of the House, representatives of the Departments of the Army, Justice, State, and Treasury, the Chairman of the United States Holocaust Memorial Council, and eight private citizens.

The Commission is charged with conducting original research into what happened to the assets of Holocaust victims—including gold, other financial instruments and art and cultural objects—that passed into the possession or control of the Federal government, including the Federal Reserve. We are also to survey the research done by others about what happened to the assets of Holocaust victims that passed into non-Federal hands, including State governments, and report to the President, making recommendations for future actions, whether legislative or administrative.

The Commission was created last year by a unanimous Act of Congress, and has been hard at work since early this year. Perhaps the most important information that the Commission's preliminary research has uncovered is the fact that the question of the extent

to which assets of Holocaust victims fell into Federal hands is much, much larger than we thought even a year ago, when we first established this Commission.

Last month, at the quarterly, meeting of the Commissioners in Washington, we unveiled a ''map'' of Federal and related offices through which these assets may have flowed. To everyone's surprise, taking a sample year—1943—we found more than 75 separate entities that may have been involved.

The records of each of these offices must first be located and then scoured—page by page—at the National Archives and other record centers across the United States. In total, we must look at tens of million of pages to complete the historical record of this period.

Futhermore, to our nation's credit, we are currently declassifying millions of pages of World War II-era information that may shine light on our government's policies and procedures during that time. But, this salutary effort dramatically increases the work the Commission must do to fulfill the mandate we have given it.

In addition, as the Commission pursues its research, it is discovering new aspects of the story of Holocaust assets that hadn't previously been understood. The Commission's research *may* be unearthing an alarming trend to import into the United States through South America, art and other possessions looted from Holocaust victims. Pursuing these leads will require the review of additional thousands of documents.

The Commission is also finding aspects of previously known incidents that have not been carefully or credibly researched. The ultimate fate of the so-called ''Hungarian Gold Trains,''—for example—a set of trains containing the art, gold, and other valuables of Hungarian victims of the Nazis that was detained by the liberating US Army during their dash for Berlin has not been carefully investigated.

In another area of our research investigators are seeking to piece together the puzzle of foreign-owned intellectual property—some of which may have been owned by victims of Nazi genocide—the rights to which were vested in the Federal government under wartime law.

For all the reasons and more, I am introducing today with Senators BOXER, DODD and GRAMS the ''U.S. Holocaust Assets Commission Extension Act of 1999.'' This simple piece of legislation moves to December, 2000, the date of the final report of the Presidential Advisory Commission on Holocaust Assets in the United States, giving our investigators the time to do a professional an credible job on the tasks the Congress has assigned to them.

This bill also authorizes additional appropriations for the Commission to complete its work. I strongly urge all of my colleagues to join me in support of this necessary and simple piece of legislation.

As we approach the end of the millennium, the United States is without a doubt the strongest nation on the face of the earth. Our strength, however, is not limited to our military and economic might. Our nation is strong because we have the resolve to look at ourselves and our history honestly and carefully—even if the truth we find shows us a less-than-flattering light.

The Presidential Advisory Commission on Holocaust Assets in the United States is seeking the truth about the belongings of Holocaust victims that came into the possession or control of the United States government. All of my colleagues should support this endeavor, and we must give the Commission the time and support it needs by supporting the U.S. Holocaust Assets Commission Extension Act of 1999.

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. 1520

*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 ''U.S. Holocaust Assets Commission Extension Act of 1999''.

**SEC. 2. AMENDMENTS TO THE U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998.**

(a) EXTENSION OF TIME FOR FINAL REPORT.—Section 3(d)(1) of the U.S. Holocaust Assets Commission Act of 1998 (22 U.S.C. 1621 nt.) is amended by striking ''December 31, 1999'' and inserting in lieu thereof ''December 31, 2000''.

(b) REAUTHORIZATION OF APPROPRIATIONS.—Section 9 of the U.S. Holocaust Assets Commission Act of 1998 (22 U.S.C. 1621 nt.) is amended—

(1) by striking ''$3,500,000'' and inserting in lieu thereof ''$6,000,000''; and

(2) by striking ''1999, and 2000,'' and inserting in lieu thereof ''1999, 2000, and 2001,''.

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By Mr. AKAKA:

S. 1522. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and forestry.

PET SAFETY AND PROTECTION ACT OF 1999

• Mr. AKAKA. Mr. President, today I am introducing the Pet Safety and Protection Act of 1999, a bill to close a serious loophole in the Animal Welfare Act. Senators KENNEDY, DURBIN, INOUYE and LEBIN are cosponsors of the legislation.

Congress passed the Animal Welfare Act over 30 years ago to stop the mistreatment of animals and to prevent the unintentional sale of family pets for laboratory experiments. Despite the Animal Welfare Act's well-meaning intentions and the enforcement efforts of the Department of Agriculture, the Act routinely fails to provide pets and pet owners with reliable protection against the actions of some unethical dealers.

Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against AIDS, cancer, and a host of life-threatening diseases. Animal research has been, and continues to be, fundamental to advancements in medicine. I am not here to argue whether animals should or should not be used in research. Rather, I am concerned with the sale of stolen pets and stray animals to research facilities.

These are less than 40 ''random source'' animal dealers operating throughout the country who acquire tens of thousands of dogs and cats. ''Random source'' dealers are USDA licensed Class B dealers that provide animals for research. Many of these animals are family pets, acquired by so-called ''bunchers'' who sometimes resort to theft and deception as they collect animals and sell them to Class B dealers. ''Bunchers'' often respond to ''free pet to a good home'' advertisements, tricking animal owners into giving away their pets by posing as someone interested in adopting the dog or cat. Some random source dealers are known to keep hundreds of animals at a time in squalid conditions, providing them with little food or water. The mistreated animals often pass through several hands and across state lines before they are eventually sold by a random source dealer to a research laboratory.

Mr. President, the use of these animals in research is subject to legitimate criticism because of the fraud, theft, and abuse that I have just described. Dr. Robert Whitney, former director for the Office of Animal Care and Use at the National Institutes of Health echoed this sentiment when he stated, ''The continue existence of these virtually unregulatable Class B dealers erodes the public confidence in our commitment to appropriate procurement, care, and use of animals in the important research to better the health of both humans and animals.'' While I doubt that laboratories intentionally seek out stolen or fraudulently obtained dogs and cats as research subjects, the fact remains that these animals end up in research laboratories, and little is being done to stop it. Mr. President, it is clear to most observers, including animal welfare organizations around the country, that this problem persists because of random source animal dealers.

The Pet Safety and Protection Act strengthens the Animal Welfare Act by prohibiting the use of random source animal dealers as suppliers of dogs and cats to research laboratories. At the same time, the Pet Safety and Protection Act preserves the integrity of animal research by encouraging research laboratories to obtain animals from legitimate sources that comply with the Animal Welfare Act. Legitimate sources are USDA-licensed Class A dealers or breeders, municipal pounds that choose to release dogs and cats for

research purposes, legitimate pet owners who want to donate their animals to research, and private and federal facilities that breed their own animals. These four sources are capable of supplying millions of animals for research, far more cats and dogs than are required by current laboratory demand. Furthermore, at least in the case of using municipal pounds, research laboratories could save money since pound animals cost only a few dollars compared to the high fees charged by random animal dealers. The National Institutes of Health, in an effort to curb abuse and deception, has already adopted policies against the acquisition of dogs and cats from random source dealers.

The Pet Safety and Protection Act also reduces the Department of Agriculture's regulatory burden by allowing the Department to sue its resources more efficiently and effectively. Each year, hundreds of thousands of dollars are spent on regulating 40 random source dealers. To combat any future violations of the Animal Welfare Act, the Pet Safety and Protection Act increases the penalties under the Act to a minimum of $1,000 per violation.

The history of disregard for the provisions of the Animal Welfare Act by some animal dealers makes the Pet Safety and Protection Act necessary. Mr. President, the purpose of this Act to stop the fraudulent practices of some Class B Dealers. Most importantly, it ensures that animals used in research are not gained by theft or deceit, and are provided decent shelter, ventilation, sanitation, and nourishment. The bill in no way impairs or impedes research, but ends senseless neglect, brutality, and deceit.●

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By Mrs. LINCOLN:

S. 1523. A bill to provide a safety net for agricultural producers through improvement of the marketing assistance loan program, expansion of land enrollment opportunities under the conservation reserve program, and maintenance of opportunities for foreign trade in United States agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry.

''HELP OUR PRODUCERS EQUITY (HOPE) ACT OF 1999

● Mrs. LINCOLN. Mr. President, I am introducing legislation today to provide a ray of hope for our farmers across the country. The situation is dire in the agricultural community. Commodity prices are at Depression era levels and are projected to remain low through this year and beyond. Despite the federal government's efforts over the past year to alleviate some the financial strain affecting the agriculture industry, a simple fact remains: we no longer have a policy that protects farmers when forces beyond their control drive prices down.

Farmers are the hardest working people I know. They work from dusk to dawn on land that has been past down from generation to generation. This heritage is in jeopardy of being lost due to depressed commodity prices and the lack of an adequate safety net for family farmers.

The agricultural industry is the backbone of rural communities. I'm not just hearing from farmers about this crisis. In the past weeks and months, I've talked with bankers, tractor and implement dealers, fertilizer distributors, and even the local barber shop. They are all concerned about the train wreck that will occur if nothing is done to provide an adequate safety net for producers. The bottom line in rural America: if farmers are hurting, everyone is hurting.

It's really ironic watching the news these days. We're too busy patting ourselves on the back over the strength of the stock market and a potential tax cut that we have all but forgotten those that are not benefitting from this record setting economy. This situation is very reminiscent of the roaring 20's that our country experienced earlier in the century, followed by the Great Depression of the 1930's. I hope and pray that it does not take a situation so severe and drastic to convince this Congress, and the nation, that our agricultural sector and domestic production needs our support.

The HOPE Act that I am introducing today is built on solid but simple principles and takes steps to reestablish a safety net for our nation's farmers. To reconstruct the safety we must restore the formula based marketing loan structure that existed prior to the 1996 Farm Bill. Loan rates were arbitrarily capped in 1996 and I feel that it is imperative to return this assistance loan back into a formula based, market-oriented program. In doing so, loan rates would more accurately reflect market trends and provide an adequate price floor for producers. No business in America can survive selling their products at levels below cost of production. With Depression era prices, that is the situation our farmers currently face. An adequate safety net must be restored. This legislation also extends the loan term by up to six months, allowing farmers more time to market their crops at the most advantageous price.

Secondly, my legislation would require the President to fully explain the benefits and costs of existing food sanctions. It does not make sense to force Cuba to purchase their rice from Asia when the United States is only 90 miles away. Without access to foreign markets, we cannot expect the agricultural community to survive. We cannot let our foreign policy objectives cloud common sense. These sanctions rarely impose significant hardship on the dictators against whom they are targeted. The unfortunate victims are the innocent citizens of these foreign lands and the U.S. producers who lose valuable markets when these restrictions are put into place. We require cost/benefit analysis from almost all sections for our government regulators. We should do no less in our agricultural trade arena.

I am also very committed to preserving our environment. The Conservation Reserve Program (CRP) and the Wetlands Reserve Program(WRP) are responsible for taking a great number of erodible acres out of production. Unfortunately, these programs are victims of their own success because they are near the maximum enrollment levels allowed by current law. I propose to expand these programs so that even more marginal acreage is eligible for participation.

I urge my colleagues to act quickly and address the growing crisis in the agriculture community. Everyone of us enjoys the safest, most abundant, and most affordable food supply in the world. Unfortunately, we often take that for granted in this nation. The consequences of doing nothing are far too great. This safe and abundant supply will not be there for this Nation or the world if we do not support our family farmers at this critical time.

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By Mr. BREAUX:

S. 1524. A bill to amend title 49, United States Code, to provide for the creation of a certification program for Motor Carrier Safety Specialist and certain informational requirements in order to promote highway safety through a comprehensive review of motor carriers; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER SAFETY SPECIALIST CERTIFICATION ACT

Mr. BREAUX. Mr. President, I rise to introduce the Motor Carrier Safety Specialist Act. The reason for the Act is to ensure that all inspectors performing compliance reviews on inter- and intra-state motor carriers are certified to a uniform standard and proficiency. This Act is in part a response to the recent bus accident in Louisiana by Custom Bus Charter, Inc. in which 22 people were killed, and in which the driver was found to have marijuana in his system.

In July 1996, just four months after the Federal Highway Administration (''FHWA'') inspected and assigned a Satisfactory rating to Customs Bus Charter, Inc., a private company under contract to the Department of Defense failed Custom Bus Charter, Inc. for not having a drug and alcohol testing program. The absence of a drug and alcohol testing program is a FHWA Critical violation for which the carrier should have been assigned, at best, a Conditional rating by FHWA. Furthermore, 27 percent of motor carriers that were assigned a Satisfactory rating by FHWA, failed to enter the DoD program because of Critical violations discovered by the DoD contractor. These examples demonstrate that FHWA does not have the resources and structure to certify inspectors, and that compliance reviews are not always performed in a consistent or accurate manner.

In addition to inconsistent inspection, FHWA cannot possibly collect sufficient safety information on the motor carrier industry. There are estimated to be more than 450,000 interstate motor carriers licensed to do business in the U.S. The Federal Highway Administration has the resources to conduct only a limited number of compliance reviews annually. While they intend to double the current level of inspections, this will only bring the total to approximately 8,000 inspections annually, less than 2 percent of the estimated motor carrier population, with more than twice that amount entering and exiting the market. Over 70 percent of existing motor carriers have never been inspected by FHWA, and fewer than 5 percent of the inspections conducted could be considered current, within the past three years.

Clearly, the problem is twofold: FHWA is in desperate need of more information regarding the compliance level of carriers licensed to do business, and, those individuals that collect the information through inspections must possess some uniform level of competence and consistency. Thus, this Act is needed to certify all Motor Carrier Safety Specialists, both in the private and pubic sectors, so that these professionals can perform consistent compliance reviews and provide safety data on motor carriers to the government, industry, and the public. The Act not only provides for certification and training of federal motor carrier safety specialists, but state, local, and third-party safety specialists as well.

Third-party, private auditors can provide additional information to assist FHWA in monitoring carrier performance. Previously, the FHWA has not accepted information from private sources because there is no certification of their proficiency. The Motor Carrier Safety Specialist Certification Board, a non-profit organization, would be formed by technical representatives of the transportation industry, for the expressed purpose of working with the Secretary of Transportation to establish a training and certification program for Motor Carrier Safety Specialists and to serve as a clearinghouse for motor carrier data from third-party auditors. This follows the policy contained in Office of Management and Budget Circular Number A–119 and directs agencies to use voluntary standards where possible and the model used successfully by the Environmental Protection Agency for referring federally-mandated certification to private organizations.

Further, FHWA needs accurate and current information on motor carriers in order to target its resources towards problem carriers. Investigations by the General Accounting Office and the Department of Transportation's Inspector General found that FHWA motor carrier data are inadequate and out-of-date, limiting FHWA's ability to identify and target ''at risk'' carriers. Private auditors could provide additional information to augment FHWA's database. The Motor Carrier Safety Specialist Certification Board would establish a program to collect and verify current information on motor carriers, and provide this information to the Federal Highway Administration to augment their database.

Finally, the public must play a role in removing unsafe carriers from U.S. highways by considering safety first when hiring a motor carrier. Simply put, if the public does not hire carriers that have poor safety performance, they will be put out of business and off our nation's highways. A media campaign must be implemented to educate the public on their role in increasing motor carrier safety, and about publicly available information systems that provide safety information on motor carriers. Two such internet-accessible systems are the publicly-funded FHWA SAFER system and the privately funded International Motor Carrier Audit Commission (IMCAC).

This program can be quickly implemented due to the support of existing groups that are equipped to carry out training, certification and clearinghouse functions, such as the Commercial Vehicle Safety Alliance (CVSA) which currently provides certification for roadside vehicle inspectors, and the International Motor Carrier Audit Commission (IMCAC) which currently provides safety data to the public.

I ask unanimous consent that the text of this bill be printed into the RECORD.

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

S. 1524

*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 ''Motor Carrier Safety Specialist Certification Act''.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds the following;

(1) The Transportation Equity Act for the 21st Century provides for the Secretary of Transportation to work in partnership with States and other political jurisdictions to establish programs to improve motor carrier, commercial motor vehicle, and driver safety, to support a safe and efficient transportation system by focusing resources on strategic safety investments, to promote safe for-hire and private transportation, including transportation of passengers and hazardous materials, to identify high-risk carriers and drivers, and to invest in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes.

(2) The Department of Transportation's Office of Inspector General Report on the Federal Highway Administration's Motor Carrier Safety Program found that established policies and procedures do not ensure that motor carrier safety regulations are enforced.

(3) The Report also found that the Safety Status Measurement System (known as ''SafeStat''), which was implemented to identify and target motor carriers with high-risk safety records, cannot target all carriers with the worst records because its database is incomplete and inaccurate, and data input is not timely.

(4) Testimony by the General Accounting Office before the House of Representative's Subcommittee on Transportation and Related Agencies indicated that SafeStat's ability to target high-risk carriers is also limited by out-of-date census data.

(5) There are no procedures in place to certify Federal, State, and private motor carrier safety specialists and no standards to ensure consistent carrier compliance reviews.

(6) There are no established protocols for acceptance of data from third-party or non-Federal or non-State motor carrier safety specialists, which detail the safety factors of motor carriers.

(b) PURPOSE.—The purpose of this Act is to provide for the creation of a certification program for Motor Carrier Safety Specialists and to establish certain informational requirements in order to promote highway safety through a comprehensive review of motor carriers.

**SEC. 3. CREATION OF A CERTIFICATION PROGRAM FOR MOTOR CARRIER SAFETY SPECIALISTS.**

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended by adding at the end thereof the following:

''§ 31148. Certified motor carrier safety specialists

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Motor Carrier Safety Specialist Certification Board, shall establish a program for the training and certification of Federal, State and local government, and nongovernmental motor carrier safety specialists by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is—

''(1) exempt from taxation under section 501(c)(1) of such Code established for the exclusive purpose of developing and administering training, testing, and certification procedures for motor carrier safety specialists; and

''(2) designated by the Secretary as the entity for carrying out the requirements of this section.

''(b) CERTIFIED COMPLIANCE REVIEW REQUIRED.—No safety compliance review under this chapter, or required by this chapter, chapter 315, or the regulations in part 390 of title 49, Code of Federal Regulations, more than 3 years after the date of enactment of the Motor Carrier Safety Specialist Certification Act is valid unless it is conducted by a motor carrier safety specialist certified under the program established under subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 of title 49, United States Code, is amended by adding at the end thereof the following:

''31148. Certified motor carrier safety specialists.''.

**SEC. 4. PHASE-IN OF CERTIFICATION REQUIREMENT.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish the program required by section 31148(a) of title 49, United States Code, within 12 months after the date of enactment of this Act.

(b) CERTIFICATION OF FEDERAL MOTOR CARRIER SAFETY SPECIALIST.—THE SECRETARY SHALL ENSURE THAT—

(1) within 24 months after the date of enactment of this Act—

(A) at least 50 percent of the employees of the Department of Transportation who perform reviews to determine compliance of carriers in accordance with regulations promulgated by the Secretary of Transportation, and

(B) all State and local government employees who perform such compliance reviews, are certified under the program established under section 31148 of title 49, United States Code; and

(2) within 36 months after such date, all Federal, State and local employees, and all nongovernmental personnel, performing such compliance review are so certified.

**SEC. 5. CLEARINGHOUSE FUNCTION.**

(a) VERIFICATION OF INFORMATION.—Section 31106(a) of title 49, United States Code, is amended by adding at the end the following:

''(5) In carrying out the provisions of this section and section 31309, the Secretary shall accept and include information, subject to verification by a clearinghouse designated by the Motor Carrier Safety Specialist certification Board, obtained from non-governmental motor carrier safety specialists certified under section 31148. The Secretary of Transportation shall work with the Motor Carrier Safety Specialist Certification Board and State Governments to establish by January 1, 2001 data exchange protocols that will enable the Secretary of Transportation to process data received from motor carrier safety specialists certified under section 31148.''

(b) INFORMATION AVAILABLE TO PUBLIC.—Section 31105(e) of title 49, United States Code, is amended by adding at the end the following:

''The Secretary of Transportation shall ensure that information obtained from motor carrier safety specialists certified under section 31148 of title 49 United States Code is made available to the public, in accordance with such policy, in an easily accessible and understandable manner through the clearinghouse designated by the Motor Carrier Safety Specialist Certification Board no later than January 1, 2002.''

**SEC. 6. PUBLIC EDUCATION FUNCTION.**

The Secretary of Transportation shall work with the Motor Carrier Safety Specialist Certification Board to establish and carry out a public education campaign to promote the use of safety performance information available under chapter 311 of title 49, United States Code, for the purpose of encouraging the use of such information in the decision-making process for hiring motor carriers.

**SEC. 7. DEFINITIONS**

MOTOR CARRIER SAFETY SPECIALIST.—A Motor Carrier Safety Specialist is an individual who:

(1) is responsible for conducting regulatory compliance reviews and safety inspections of commercial motor carriers;

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By Mrs. MURRAY (for herself and Mr. INOUYE):

S. 1525. A bill to provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of its claims concerning its contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes; to the Committee on Indian Affairs.

THE SPOKANE TRIBE SETTLEMENT ACT

Mrs. MURRAY. Mr. President, today I am pleased to introduce on behalf of myself and the distinguished Senator from Hawaii, Mr. INOUYE, ''The Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Act.'' This bill will provide a settlement of the claims of the Spokane Tribe for its contribution to the production of hydropower by the Grand Coulee Dam.

The Grand Coulee Dam is the largest concrete dam in the world, the largest electricity producer in the United States, and the third largest electricity producer in the world. Grand Coulee is one mile in width; its spillway is twice the height of Niagara Falls. It provides electricity and water to one of the world's largest irrigation projects, the one million acre Columbia Basin Project. The Grand Coulee is the backbone of the Northwest's federal power grid and agricultural economy.

To the Spokane Tribe, however, the Grand Coulee Dam brought an end to a way of life. The dam flooded their reservation on two sides. The Spokane River changed from a free flowing waterway that supported plentiful salmon runs, to barren slack water that now erodes the southern lands of the reservation. The benefits that accrued to the nation and the Northwest were made possible by uncompensated injury to the Native Americans of the Columbia and Spokane Rivers.

The legislation I am introducing seeks to compensate the Spokane Tribe for its losses. In 1994, Congress enacted similar settlement legislation to compensate the neighboring Confederated Colville Tribes. That legislation provided a onetime payment of $53 million for past damages and approximately $15 million annually from the proceeds from the sale of hydropower by the Bonneville Power Administration. The Spokane Tribe settlement legislation would provide a settlement proportional to that provided to the Colville Tribes, which was based on the percentage of lands appropriated from the respective tribes for the dam. This translates into 39.4% of the past and future compensation awarded the Colville Tribes.

Let me give my colleagues some of the background surrounding this issue. From 1927 to 1931, at the direction of Congress, the U.S. Army Corps of Engineers investigated the Columbia River and its tributaries. In its report to Congress, the Corps recommended the Grande Coulee site for hydroelectric development. In 1933, the Department of Interior federalized the project under the National Industrial Recovery Act, and in 1935, Congress authorized the project in the Rivers and Harbors Act.

In 1940, Congress enacted a statute to authorize the Interior Department to designate whichever Indian lands it deemed necessary for Grand Coulee construction and to receive all rights, title and interest the Indians had in them. In return, the Tribes received compensation in the amount determined by Interior Department appraisals. However, the only land that was appraised and for which Tribes were compensated was the newly flooded land, for which the Spokane Tribe received $4700. There is no evidence that the Department advised or that Congress knew that the Tribes' water rights were not extinguished. Neither was there evidence the Department know the Indian title and trust status for the Tribal land underlying the river beds had not been extinguished. No compensation was included for the power value contributed by the use of the Tribal resources or for the loss of the Tribal fisheries or other damages to Tribal resources.

As pointed out in a 1976 Opinion of Lawrence Aschenbrenner, the Acting Associate Solicitor, Division of Indian Affairs, Department of Interior

The 1940 act followed seven years of construction during which farm lands, and timber lands were flooded, and a fishery destroyed, and during which Congress was silent as to the Indian interests affected by the construction. Both the Congress and the Department of Interior appeared to proceed with the Grand Coulee project as if there were no Indians involved there. . . . There is no tangible evidence, currently available, to indicate that the Department ever consulted with the Tribes during the 1993–1940 period concerning the ongoing destruction of their land and resources and proposed compensation therefore. . . . It is our conclusion that the location of the dams on tribal land and the use of the water for power production, without compensation, violated the government's fiduciary duty toward the Tribes.

In 1994, the Colville legislation settled the claims of the Colville Tribes to a share of the hydropower revenues from the Grand Coulee Dam. This claim was among the claims which the Colville Tribes filed with the Indian Claims Commission (ICC) under the Act of August 13, 1946, which included a five year statute of limitations. While the Colville Tribes had been formally organized for more than 15 years, the Spokane Tribe did not formally organize until 16 days prior to the ICC statute of limitations deadline. In addition, while the BIA was aware of the potential claims of the Spokane Tribe to a portion of the hydropower revenues generated by Grand Coulee, there is no evidence that the BIA ever advised the Tribe of such claims. The settlement for the Spokane Tribes was not included with that for the Colville Tribes in 1994 because the Colvilles had concerns that the statute of limitations would hold up the legislation.

Since the 1970s, Congress and federal agencies have indicated that both the Colville and Spokane Tribes should be compensated. Since 1994, when an agreement was reached to compensate the Colville Tribes, Congress and federal agencies have expressed interest in providing equitable compensation to the Spokane Tribe. This legislation will provide for the long overdue settlement to which the Spokane Tribe is entitled. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1525

*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 ''Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act''.

**SEC. 2. FINDINGS.**

The Congress find the following:

(1) From 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites where power could be produced at low cost.

(2) The Corps of Engineers listed a number of sites, including the site where the Grand Coulee Dam is now located, with recommendations that the power development be performed by local governmental authorities or private utilities under the Federal Power Act.

(3) Under section 10(e) of the Federal Power Act, licensees must pay Indian tribes for the use of reservation lands.

(4) The Columbia Basin Commission, an agency of the State of Washington, applied for, and in August 1933 received, a preliminary permit from the Federal Power Commission for water power development of the Grand Coulee Site.

(5) In the mid-1930's, the Federal Government, which is not subject to the Federal Power Act, federalized the Grand Coulee Dam project and began construction of the Grand Coulee Dam.

(6) At the time the Grand Coulee Dam project was federalized, the Federal Government knew and recognized that the Spokane Tribe and the Confederated Tribes of the Colville Reservation had compensable interests in the Grand Coulee Dam project, including but not limited to development of hydropower, extinguishment of a salmon fishery upon which the Spokane Tribe was almost totally dependent, and inundation of lands with loss of potential power sites previously identified by the Spokane Tribe.

(7) In an Act dated June 29, 1940 (54 Stat. 703; 16 U.S.C. 835d), Congress enacted legislation to grant to the United States all the rights of the Indians in lands of the Spokane Tribe and Colville Indian Reservations required for the Grand Coulee Dam project and various rights-of-way over Indian lands required in connection with the project. The Act provided that compensation for the lands and rights-of-way required shall be determined by the Secretary of the Interior in such amounts as such Secretary determines just and equitable.

(8) In furtherance of the Act of June 29, 1940, the Secretary of the Interior paid to the Spokane Tribe the total sum of $4,700. The Confederated Tribes of the Colville Reservation received a payment of $63,000.

(9) In 1994, following 43 years of litigation before the Indian Claims Commission, the United States Court of Federal Claims and the United States Court of Appeals for the Federal Circuit, Congress ratified an agreement between the Confederated Tribes of the Colville Reservation and the United States that provided for past damages and annual payments of $15,250,000 in perpetuity, adjusted annually, based on revenues for the sale of electric power and transmission of such power by the Bonneville Power Administration.

(10) In legal opinions issued throughout the years by the Department of the Interior Solicitor's Office a Task Force Study conducted from 1976 to 1980 ordered by the Senate Appropriations Committee, and in hearings before the Congress when the Confederated Tribes Act was enacted, it has repeatedly been recognized that the Spokane Tribe suffered similar damages and had a case legally comparable with that of the Confederated Tribes of the Colville Reservation with the sole exception that the 5-year statute of limitations provided in the Indian Claims Commission Act of 1946 prevented the Spokane Tribe from bringing its own action for fair and honorable dealings as provided in that Act.

(11) The failure of the Spokane Tribe to bring an action of its own before the Indian Claims Commission can be attributed to a combination of factors, including the failure of the Bureau of Indian Affairs to carry out its advisory responsibilities as required by the Indian Claims Commission Act (Act of August 13, 1946, ch. 959, 60 Stat. 1050) and an effort of the Commissioner of Indian Affairs to impose improper requirements on claims attorneys retained by Indian tribes which caused delays in retention of counsel and full investigation of the Spokane Tribe's potential claims.

(12) As a consequence of construction of the Grand Coulee Dam project, the Spokane Tribe has suffered the complete loss of the salmon fishery upon which it was dependent, the loss of identified hydropower sites it could have developed, the loss of hydropower revenues it would have received under the Federal Power Act had the project not been federalized, and it continues to lose hydropower revenues which the Federal Government recognized the Spokane Tribe was due at the time the project was constructed.

(13) Over 39 percent of the Indian-owned lands used for the Grand Coulee Dam project were Spokane Tribe lands.

**SEC. 3. STATEMENT OF PURPOSE.**

The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe on a basis that is proportionate to the compensation provided to the Confederated Tribes of the Colville Reservation for the damages and losses suffered as a consequence of construction and operation of the Grand Coulee Dam project.

**SEC. 4. SETTLEMENT FUND ACCOUNT.**

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established in the Treasury an interest bearing account to be known as the ''Spokane Tribe of Indians Settlement Fund Account''.

(b) DEPOSIT OF AMOUNTS.—

(1) INITIAL DEPOSIT.—Upon enactment of this Act and appropriation of funds, the Secretary of the Treasury shall deposit into the Fund Account a sum equal to 39.4 percent of the sum paid to the Confederated Tribes of the Colville Reservation in a lump sum pursuant to section 5(a) of the Confederated Tribes Act, adjusted by the consumer price index from the date of that payment of the Confederated Tribes until the date of enactment of this Act, as payment and satisfaction of the Spokane Tribe's claim for use of its lands for generation of hydropower for the period from 1940 through November 2, 1994, the date of the enactment of the Confederated Tribes Act.

(2) SUBSEQUENT DEPOSITS.—Commencing on September 30 of the first fiscal year following enactment of this Act and on September 30 of each of the 5 fiscal years following such fiscal year, the Administrator of the Bonneville Power Administration shall pay into the Fund Account a sum equal to 20 percent of 39.4 percent of the sum authorized to be paid to the Confederated Tribes of the Colville Reservation pursuant to section 5(b) of the Confederated Tribes Act through the end of the fiscal year during which this Act is enacted, adjusted by the consumer price index to maintain the purchasing power the Spokane Tribe would have had if annual payments had been made to the Spokane Tribe on the date annual payments commenced and were subsequently made to the Confederated Tribes of the Colville Reservation pursuant to section 5(b) of the Confederated Tribes Act.

(e) ANNUAL PAYMENTS.—On September 1 of the fiscal year following the enactment of this Act and of each fiscal year thereafter, payments shall be made by the Bonneville Power Administration, or any successor thereto, directly to the Spokane Tribe in an amount which is equal to 39.4 percent of the annual payment authorized to be paid to the Confederated Tribes of the Colville Reservation in the operative and each subsequent fiscal year pursuant to section 5(b) of the Confederated Tribes Act.

**SEC. 5. USE AND TREATMENT OF SETTLEMENT FUNDS.**

(a) TRANSFER OF FUNDS TO TRIBE.—The Secretary of the Treasury shall transfer all or any portion of the settlement funds described in section 4(a) to the Spokane Business Council not later than 60 days after such Secretary receives written notice of the adoption by the Spokane Business Council of a resolution requesting that such Secretary execute the transfer of such funds. Subsequent requests may be made and funds transferred if not all of the funds are requested at one time.

(b) USE OF INITIAL PAYMENT FUNDS.—

(1) GENERAL DISCRETIONARY FUNDS.—Twenty-five percent of the settlement funds described in section 4(a) and (b) shall be reserved by the Business Council and used for discretionary purposes of general benefit to all members of the Spokane Tribe.

(2) FUNDS FOR SPECIFIC PURPOSES.—Seventy-five percent of the settlement funds described in section 4(a) and (b) shall be used for the following:

(A) Resource development program.

(B) Credit program.

(C) Scholarship program.

(D) Reserve, investment, and economic development programs.

(c) USE OF ANNUAL PAYMENT FUNDS.—Annual payments made to the Spokane Tribe pursuant to section 4(c) may be used or invested by the Spokane Tribe in the same manner as other tribal governmental funds.

(d) APPROVAL OF SECRETARY NOT REQUIRED.—Notwithstanding any other provision of law, the approval of the Secretary of the Treasury or the Secretary of the Interior for any payment, distribution, or use of the principal, interest, or income generated by any settlement funds transferred or paid to the Spokane Tribe pursuant to this Act shall not be required and such Secretaries shall have no trust responsibility for the investment, supervision, administration, or expenditure of such funds once such funds are transferred to or paid directly to the Spokane Tribe.

(c) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—The payments or distributions of any portion of the principal, interest, and income generated by the settlement funds described in section 4 shall be treated in the same manner as payments or distributions from the Investment Fund described in section 6 of Public Law 99–346 (100 Stat. 677).

(f) TRIBAL AUDIT.—The settlement funds described in section 4, once transferred or paid to the Spokane Tribe, shall be considered Spokane Tribe governmental funds and, as other tribal governmental funds, be subject to an annual tribal governmental audit.

**SEC. 6. REPAYMENT CREDIT.**

Beginning in the fiscal year following enactment of this Act and continuing for so long as annual payments are made under this Act, the Administrator of the Bonneville Power Administration shall deduct from the interest payable to the Secretary of the Treasury from net proceeds as defined in section 13 of the Federal Columbia River Transmission System Act, a percentage of the payment made to the Spokane Tribe for the prior fiscal year. The actual percentage

of such deduction shall be calculated and adjusted to ensure that the Bonneville Power Administration receives a deduction comparable to that which it receives for payments made to the Confederated Tribes of the Colville Reservation pursuant to the Confederated Tribes Act. Each deduction made under this section shall be credited to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made, and shall be allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during that fiscal year; except that, if the deduction in any fiscal year is greater than the interest due on debt associated with the generation function for the fiscal year, then the amount of the deduction that exceeds the interest due on debt associated with the general function shall be allocated pro rata to all other interest payments due during that fiscal year. To the extent that the deduction exceeds the total amount of any such interest, the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary of the Treasury.

**SEC. 7. SATISFACTION OF CLAIMS.**

Payment under section 4 shall constitute full payment and satisfaction of the Spokane Tribe's claim to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project from 1940 through the fiscal year prior to the fiscal year during which this Act is enacted and represents the Spokane Tribe's proportional entitlement of hydropower revenues based on the lump sum payment for damages from 1940 through 1994 and the annual payments by the Bonneville Power Administration to the Colville Tribes commencing in fiscal year 1995 through the fiscal year that this Act is enacted.

**SEC. 8. DEFINITIONS.**

For the purposes of this Act—

(1) the term ''Confederated Tribes Act'' means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (P.L. 103–436; 108 Stat. 4577);

(2) the term ''Fund Account'' means the Spokane Tribe of Indians Settlement Fund Account established under section 4(a); and

(3) the term ''Spokane Tribe'' means the Spokane Tribe of Indians of the Spokane Reservation.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

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By Mr. ROCKEFELLER (for himself, Mr. ROBB, Mr. SARBANES, Mr. KERRY, Mr. KENNEDY, and Mr. DASCHLE):

S. 1526. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in entities seeking to provide capital to create new markets in low-income communities; to the Committee on Finance.

NEW MARKETS TAX CREDIT

Mr. ROCKEFELLER. Mr. President, I rise today to introduce a new tool, the ''New Markets Tax Credit,'' to be used to expand economic development opportunities in low-income communities in West Virginia and across this country. I'm very pleased that my good friends, Senator ROBB, SARBANES, KENNEDY, and KERRY, are joining me in this effort.

Despite the unprecedented period of expansion of the U.S. economy, many urban and rural areas continue to be held back by stubborn problems such as high unemployment and underemployment, insufficient affordable housing, shortages of services such as day care and shopping centers, and perhaps most importantly, by a chronic shortage of the private investment capital needed to stimulate and support community development.

For example, in West Virginia, we have counties where the official unemployment rate is as high as 14%. Counties like Mingo, McDowell, Logan and Boone have seen devastating job losses in the past two decades. For these rural communities, the nation's current economic boom is a distant echo. It's not that these people do not want to work, or that the entrepreneurial spirit is lacking. A major factor is the lack of private sector equity investment for business growth.

I have been pursuing economic development opportunities for my state for over 30 years, and perhaps the largest problem I've encountered is the lack of venture capital. America's most depressed economic areas desperately need private investment. They get very little not only because they are unattractive, but also because of misperceptions and market failures. A lack of information, for instance, means that many companies may have an exaggerated idea of the risk of investing in deprived areas, and often have no idea of potential markets. Yes, it is true that private venture capital investment rose 24% in 1998, 76% of the total went to technology-based companies—primarily in California's Silicon Valley and New England's high-tech corridors. But only 5.7% of all venture capital in 1998 went to South Central, Southwest and Northwest regions combined. Obviously, this is a huge disparity that needs to be corrected.

The New Markets Tax Credit is designed to encourage $6 billion in private sector equity investment for business growth in low and moderate income rural and urban communities. It would do that by providing tax credits for investments of $1.2 billion annually. The investments would be made by banks, foundations, companies or individuals. These investors would acquire stock or other equity interests in selected community economic development entities whose primary mission is serving distressed communities. Urban and rural communities with high poverty and low median income would be targeted.

The tax credits would be issued by the U.S. Department of Treasury to the selected entities. These entities in turn would sell or syndicate the credit to investors. The tax credit ultimately delivered to the investor would be in the amount of 6 percent annually of the amount of the investment, for an approximate aggregate value to the investor of 25 percent of the ''present value'' of the original investment over the 7 years. A ''qualified investment'' by an investor would be a cash purchase of stock or other equity in a selected entity, which must be held for at least 7 years. Substantially all of the investment would be required to be used by the community economic development entity to make ''qualified low-income community investments,'' which would be equity investments in, or loans to, qualified active businesses in the low-income communities.

The goal of this tax credit will be to encourage private investors who may have never considered investing in high-risk areas to do so. By investing in the community through local businesses private investors can explore new markets and improve the quality of life for the people in the area. Community development organizations may use the funds from private investors to develop micro-enterprise, manufacturing businesses, commercial facilities, communities facilities, like child care facilities and senior centers and co-operatives. It has the potential to encourage $6 billion in venture capital to these high-risk areas. And because community development vehicles may not redeem the equity interest for at least seven years, capital stays in the community. The New Markets Tax Credit will create new relationships between investors, community development vehicles, and small businesses, which will foster continued support and lasting investment.

Mr. President, I believe that the New Markets Tax Credit may be one of the most promising and viable new idea for genuine economic development in distressed urban and rural communities in recent years. President Clinton has highlighted this proposal as part of his FY2000 budget, and just last month took the case to people across the country, those parts of our country which have been too long ignored can experience real benefit from this type of initiative. Communities, businesses, and investors are responding enthusiastically.

Hope that is backed up by a strong program of economic investment is needed in West Virginia and urban and rural communities throughout America. We have all heard the talk in the recent weeks as proponents of massive new tax breaks argue that we should send even more money back to those who have benefited the most from our historic economic expansion. I believe it would be irresponsible for us to create ways to provide additional tax relief to those in our society who need the least assistance before we make a concerted effort to revitalize the parts of our country, and to help the people of our country, who have been noticeably left out of the prosperity that went elsewhere. If we're going to do more for those who need it least, let us also commit to do what we can to propel those most in need of a helping hand into the future with real hope of economic success. The New Markets Tax Credit is one solid way to do just that.

I urge my colleagues to examine this proposal carefully and give it their full

support. 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. 1526

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NEW MARKETS TAX CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

**"SEC. 45D. NEW MARKETS TAX CREDIT.**

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the new markets tax credit determined under this section for such taxable year is an amount equal to 6 percent of the amount paid to the qualified community development entity for such investment at its original issue.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any qualified equity investment—

''(A) the date on which such investment is initially made, and

''(B) each of the 6 anniversary dates of such date thereafter.

''(b) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a qualified community development entity if—

''(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

''(B) substantially all of the proceeds from such investment is used by the qualified community development entity to make qualified low-income community investments, and

''(C) such investment is designated for purposes of this section by the qualified community development entity.

Such term shall not include any equity investment issued by a qualified community development entity more than 7 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 7-year period may be reallocated by the Secretary under subsection (f).

''(2) LIMITATION.—The maximum amount of equity investments issued by a qualified community development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

''(3) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the qualified community development entity are invested in qualified low-income community investments.

''(4) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified equity investment' includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

''(5) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

''(6) EQUITY INVESTMENT.—The term 'equity investment' means—

''(A) any stock in a qualified community development entity which is a corporation, and

''(B) any capital interest in a qualified community development entity which is a partnership.

''(c) QUALIFIED COMMUNITY DEVELOPMENT ENTITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified community development entity' means any domestic corporation or partnership if—

''(A) the primary mission of the entity is serving, or providing investment capital for, low-income communities or low-income persons,

''(B) the entity maintains accountability to residents of low-income communities through representation on governing or advisory boards or otherwise, and

''(C) the entity is certified by the Secretary for purposes of this section as being a qualified community development entity.

''(2) SPECIAL RULES FOR CERTAIN ORGANIZATIONS.—The requirements of paragraph (1) shall be treated as met by—

''(A) any specialized small business investment company (as defined in section 1044(c)(3)), and

''(B) any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)).

''(d) QUALIFIED LOW-INCOME COMMUNITY INVESTMENTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified low-income community investment' means—

''(A) any equity investment in, or loan to, any qualified active low-income community business,

''(B) the purchase from another community development entity of any loan made by such entity which is a qualified low-income community investment if the amount received by such other entity from such purchase is used by such other entity to make qualified low-income community investments,

''(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities, and

''(D) any equity investment in, or loan to, any qualified community development entity if substantially all of the investment or loan is used by such entity to make qualified low-income community investments described in subparagraphs (A), (B), and (C).

''(2) QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified active low-income community business' means, with respect to any taxable year, any corporation or partnership if for such year—

''(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community,

''(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income community,

''(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income community,

''(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

''(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397B(e)).

''(B) PROPRIETORSHIP.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

''(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—The term 'qualified active low-income community business' includes any trades or businesses which would qualify as a qualified active low-income community business if such trades or businesses were separately incorporated.

''(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 1397B(d); except that—

''(A) in lieu of applying paragraph (2)(B) thereof, the rental to others of real property located in any low-income community shall be treated as a qualified business if there are substantial improvements located on such property,

''(B) paragraph (3) thereof shall not apply, and

''(C) such term shall not include any business if a significant portion of the equity interests in such business are held by any person who holds a significant portion of the equity investments in the community development entity.

''(e) LOW-INCOME COMMUNITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'low-income community' means any population census tract if—

''(A) the poverty rate for such tract is at least 20 percent, or

''(B)(i) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

''(ii) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

''(2) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates and median family income.

''(3) TARGETED POPULATION.—The Secretary may prescribe regulations under which 1 or more targeted populations (within the meaning of section 3(20) of the Riegle Community Development and Regulatory Improvement Act of 1974 (12 U.S.C. 4702(20))) may be treated as low-income communities. Such regulations shall include procedures for identifying the area covered by any such community for purposes of determining entities which are qualified active low-income community businesses with respect to such community.

''(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

''(1) IN GENERAL.—There is a new markets tax credit limitation of $1,200,000,000 for each of calendar years 2000 through 2004.

''(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among qualified community development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to entities with records of having successfully provided capital or technical assistance to disadvantaged businesses or communities.

''(3) CARRYOVER OF UNUSED LIMITATION.—If the new markets tax credit limitation for

any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess.

''(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

''(1) IN GENERAL.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a qualified community development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

''(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

''(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

''(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

''(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a qualified community development entity if—

''(A) such entity ceases to be a qualified community development entity,

''(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

''(C) such investment is redeemed by such entity.

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

''(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal benefits (including the credit under section 42 and the exclusion from gross income under section 103),

''(2) which prevent the abuse of the provisions of this section through the use of related parties,

''(3) which impose appropriate reporting requirements

''(4) which apply the provisions of this section to newly formed entities.''

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following new paragraph:

''(14) the new markets tax credit determined under section 45D(a).''

(2) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 of such Code is amended by adding at the end the following new paragraph:

''(10) NO CARRYBACK OF NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2000.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45D may be carried back to a taxable year ending before January 1, 2000.''

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding at the end the following new paragraph:

''(9) the new markets tax credit determined under section 45D(a).''

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45D. New markets tax credit.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 1999.

Mr. ROBB. Mr. President, I am pleased to join my colleague, Senator ROCKEFELLER, in introducing the New Markets Tax Credit Act, innovative legislation that will benefit both rural and urban America.

As its name suggests, the New Markets bill is designed to create new markets within our nation for investment, for job growth, and for renewal. While most of the nation experiences record economic growth, there are some places that have been left behind. Too many communities in both rural and urban America haven't been able to share the wealth, and without willing investors, that wealth may never come. Capitalism cannot flourish where there is no capital. This legislation we're introducing today addresses the need for investment in all our communities, and I believe the tax credits contained in this bill provide a way for America to lift as it climbs.

Under this bill, tax credits would be allocated to Community Development Entities located within the neighborhoods and rural areas where help is needed. Those who invest in these Community Development organizations would receive tax benefits, and the funds they invested would be used by the organizations to invest in local businesses, provide start-up capital, or make low interest loans. The investment decisions would be made at the local level by those who best know the community, would attract private enterprise to create economic growth, and would use federal tax credits to achieve these objectives. This local, federal, and private sector partnership holds the key to improving communities across this nation.

The New Markets Initiative can use both the business incubator and community action models that have proven so successful in many communities. An example of such success can be found at People, Incorporated in Southwest Virginia, a community action agency that promotes economic growth by leveraging funds and lending expertise to new or expanding businesses.

This legislation, along with the Enterprise Zone bill I recently introduced, gives lcoal communities the tools they need to spur economic growth where they live. Attracting investments to the neediest communities will pay dividends, not just in economic terms, but in quality of life terms as well. Prospering communities can provide quality education, improved transportation and better police protection. And improving communities can provide a draw for those who would otherwise be tempted to move out to the suburbs, thereby reducing the pressures that have created suburban sprawl and increasing commutes and diminishing open spaces.

Mr. President, I hope we can move this legislation quickly.

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By Mr. REED:

S. 1527. A bill to amend section 258 of the Communications Act of 1934 to enhance the protections against unauthorized changes in subscriber selections of telephones service providers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE ANTI-SLAMMING ACT OF 1999

Mr. REED. Mr. President, I rise today to make a few comments concerning legislation which I am introducing to deal with the problem of slamming.

Telephone ''slamming'' is the illegal practice of switching a consumer's long distance service without the individual's consent. This problem has increased dramatically over the last several years, as competition between long distance carriers has risen, and slamming is the top consumer complaint lodged at the Federal Communications Commission (FCC), with 11,278 reported complaints in 1995, and 16,500 in 1996. In both 1997 and 1998, more than 20,000 complaints were filed. It is very clear that this problem is on the rise, and unfortunately, this represents only the tip of the iceberg because most consumers never report violations to the FCC. One regional Bell company estimates that 1 in every 20 switches is fraudulent. Media reports indicate that as many as 1 million illegal transfers occur annually. Thus, slamming threatens to rob consumers of the benefit of a competitive market, which is now composed of over 500 companies which generate $72.5 billion in revenues. As a result of slamming, consumers face not only higher phone bills, but also the significant expenditure of time and energy in attempting to identify and reverse the fraud. The results of slamming are clear: higher phone bills and immense consumer frustration.

Mr. President, we are all aware of the stiff competition which occurs for customers in the long distance telephone

service industry. The goal of deregulating the telecommunications industry was to allow consumers to easily avail themselves of lower prices and better service. Hopefully, this option will soon be presented to consumers for in-state calls and local phone service. Indeed, better service at lower cost is a main objective of those who seek to deregulate the utility industry. Unfortunately, fraud threatens to rob many consumers of the benefits of a competitive industry.

Telemarketing is one of the least expensive and most effective forms of marketing, and it has exponentially expanded in recent years. By statute, the Federal Trade Commission (FTC) regulates most telemarketing, prohibiting deceptive or abusive sales calls, requiring that homes not be called at certain times, and that companies honor a consumer's request not to be called again. The law mandates that records concerning sales be maintained for two years. While the FTC is charged with primary enforcement, the law allows consumers, or state Attorneys General on their behalf, to bring legal action against violators. Yet, phone companies are exempt from these regulations, since they are subject to FCC regulation.

While the FCC has brought action against twenty-two of the industry's largest and smallest firms for slamming violations with penalties totaling over $1.8 million, this represents a minute fraction of the violations. FCC prosecution does not effectively address or deter this serious fraud. State officials have become more aggressive in pursuing violators. The California Public Utility Commission fined a company $2 million in 1997 after 56,000 complaints were filed against it. Arizona, Arkansas, Idaho, Illinois, Kansas, Minnesota, Mississippi, Missouri, New Jersey, Ohio, Vermont, and Wisconsin have all pursued litigation against slammers. Public officials of twenty-five states asked the FCC to adopt tougher rules against slammers.

As directed by the Telecommunications Act of 1996, the FCC has moved to close several loopholes which have allowed slamming to continue unabated. Most important, the FCC has proposed to eliminate the financial incentive which encourages many companies to slam by mandating that customers who are slammed do not have to pay fees to slammers for the first thirty days after the switch occurred. At present, a slammer can retain the profits generated from an illegal switch. Additionally, the FCC has proposed regulations which would require that a carrier confirm all switches generated by telemarketing through either (1) a letter of agency, known as a LOA, from the consumer; (2) a recording of the consumer verifying his or her choice on a toll-free line provided by the carrier; or (3) a record of verification by an appropriately qualified and independent third party. The regulations, which were recently finalized by the FCC, unfortunately have been blocked by court order until long distance carriers have time to analyze the implications of the rules. If and when these rules are finalized, I still believe that these remedies will be wholly inadequate to address the ever-increasing problem of slamming. The problem is that slammed consumers would still be left without conclusive proof that their consent was properly obtained and verified.

My legislation encompasses a three-part approach to stop slamming by strengthening the procedures used to verify consent obtained by marketers; increasing enforcement procedures by allowing citizens or their representatives to pursue slammers in court with the evidence necessary to win; and encouraging all stakeholders to use emerging technology to prevent fraud.

Mr. President, let me also thank the National Association of Attorneys General, the National Association of Regulatory Utility Commissioners which through both their national offices and individual members provided extensive recommendations to improve this bill. Additionally, I have found extremely helpful the input of several groups which advocate on behalf of consumers. I was particularly pleased to work with the Consumer Federation of America to address concerns which its members expressed.

Mr. President, let me take a few minutes to outline the specific provisions of my bill. My legislation requires that a consumer's consent to change service is verified so that discrepancies can be adjudicated quickly and efficiently. Like the 1996 Act, my bill requires a legal switch to include verification. However, my legislation enumerates the necessary elements of a valid verification. First, the bill requires verification to be maintained by the provider, either in the form of a letter from the consumer or by recording verification of the consumer's consent via the phone. The length that the verification must be maintained is to be determined by the FCC. Second, the bill stipulates the form that verification must take. Written verification remains the same as current regulations. Oral verification must include the voice of the subscriber affirmatively demonstrating that she wants her long distance provider to be changed; is authorized to make the change; and is currently verifying an imminent switch. The bill mandates oral verification to be conducted in a separate call from that of the telemarketer, by an independent, disinterested party. This verifying call must promptly disclose the nature and purpose of the call. Third, after a change has been executed, the new service provider must send a letter to the consumer, within five business days of the change in service, informing the consumer that the change, which he requested and verified, has been effected. Fourth, the bill mandates that a copy of verification be provided to the consumer upon request. Finally, the bill requires the FCC to finalize rules implementing these mandates within nine months of enactment of the bill.

These procedures should help ensure that consumers can efficiently avail themselves of the phone service they seek, without being exposed to random and undetectable fraudulent switches. If an individual is switched without his or her consent, the mandate of recorded, maintained verification will provide the consumer with the proof necessary to prove that the switch was illegal.

The second main provision of my legislation would provide consumers, or their public representatives, a legal right to pursue violators in court. Following the model of Senator HOLLINGS' 1991 Telephone Consumer Protection Act, my bill provides aggrieved consumers with a private right of action in any state court which allows, under specific slamming laws or more general consumer protection statutes such an action. The 1991 Act has been adjudicated to withstand constitutional challenges on both equal protection and tenth amendment claims. Thus, the bill has the benefit of specifying one forum in which to resolve illegal switches of all types of service: long distance, in-state, and local service.

Realizing that many individuals will not have the time, resources, or inclination to pursue a civil action, my bill also allows state Attorneys Generals, or other officials authorized by state law, to bring an action on behalf of citizens. Like the private right of action in suits brought by public officials damages are statutorily set at $1,000 or actual damages, whichever is greater. Treble damages are awarded in cases of knowing or willful violations. In addition to monetary awards, states are entitled to seek relief in the form of writs of mandamus, injunction, or similar relief. To ensure a proper role for the FCC, state actions must be brought in a federal district court where the victim or defendant resides. Additionally, state actions must be certified with the Commission, which maintains a right to intervening in an action. The bill makes express the fact that it has no impact on state authority to investigate consumer fraud or bring legal action under any state law.

Finally, Mr. President, my legislation recognizes that neither legislators nor regulators can solve tomorrow's problems with today's technology. Therefore, my bill mandates that the FCC provide Congress with a report on other, less burdensome but more secure means of obtaining and recording consumer consent. Such methods might include utilization of Internet technology or issuing PIN numbers or customer codes to be used before carrier changes are authorized. The bill requires that the FCC report to Congress on such methodology not later than 180 days after enactment of this bill.

Mr. President, I appreciate the opportunity to discuss my initiative to stop

slamming. Last year we came close to passing significant anti-slamming legislation. I hope that this issue can be addressed quickly this Congress. As a result, I would urge all my colleagues to cosponsor this legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1527

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress makes the following findings:

(1) As the telecommunications industry has moved toward competition in the provision of long distance telephone services, consumers have increasingly elected to change the carriers that provide their long distance telephone services. As many as 50,000,000 consumers now change long distance telephone service providers each year.

(2) The fluid nature of the market for long distance telephone services has also allowed an increasing number of unauthorized changes of telephone service providers to occur. Such changes have been called ''slamming'', a term which denotes any practice in which a consumer's long distance telephone service provider is changed without the consumer's knowledge or consent.

(3) Slamming accounts for the largest number of consumer complaints received by the Common Carrier Bureau of the Federal Communications Commission. As many as 1,000,000 consumers are subject to the unauthorized change of telephone service providers each year.

(4) The increased costs which consumers face as a result of the unauthorized change of telephone service providers threaten to deprive consumers of the financial benefits created by a competitive marketplace in telephone services.

(5) The burdens placed upon consumers by unauthorized changes of telephone service providers will expand exponentially as competition enters into the markets for intraLATA and local telephone services.

(6) The Telecommunications Act of 1996 sought to combat unauthorized changes of telephone service providers by requiring that a provider who changes a subscriber without authorization pay the previously selected carrier an amount equal to all charges paid by the subscriber after the change. The Federal Communications Commission has proposed regulations to implement this requirement. Implementing these regulations will eliminate many of the financial incentives to execute unauthorized changes of telephone service providers. However, under current and proposed regulations consumers have, and will continue to face, difficulty in securing proof of unauthorized changes. Thus, enforcement of the regulations will be impeded by a lack of tangible proof of consumer consent to the change of telephone service providers.

(7) The interests of consumers require that telephone service providers maintain evidence of their verification of consumer consent to changes in telephone service providers. This evidence should take the form of a consumer's written consent or a recording of a consumer's oral consent obtained by the telephone service provider or a third party.

(8) Both Congress and the Federal Communications Commission should continue to examine electronic means by which consumers could most readily change telephone service providers while ensuring that such changes would result only from consumer action evidencing express consent to such changes.

(9) By providing consumers with a private right of action in State court, if State law permits, against those who have executed unauthorized changes of telephone service providers, Congress insures in a constitutional manner that neither Federal nor State courts will be overburdened with litigation, while also providing the proper forum for such actions given that competition will soon come to all segments of the telephone service market.

(10) The majority of consumers who have been subject to the unauthorized change of telephone service do not seek redress through the Federal Communications Commission. In light of the general responsibilities of the States for consumer protection, as well as the prosecutions against unauthorized changes already undertaken by the States, it is essential that the States be allowed to pursue actions on behalf of their citizens, while also preserving the proper role of the Federal Communications Commission in regulating the telecommunications industry.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect consumers from unauthorized changes of telephone service providers;

(2) to allow the efficient prosecution of legal actions against telephone service providers who defraud consumers by transferring telephone service providers without consumer consent; and

(3) to facilitate the ready selection of telephone service providers by consumers.

**SEC. 2. ENHANCEMENT OF PROTECTIONS AGAINST UNAUTHORIZED CHANGES IN SUBSCRIBER SELECTIONS OF TELEPHONE SERVICE PROVIDERS.**

(a) VERIFICATION OF AUTHORIZATION.—

(1) IN GENERAL.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended—

(A) by striking ''(a) PROHIBITION.—No telecommunications'' and inserting the following:

''(a) PROHIBITION.—

''(1) IN GENERAL.—No telecommunications'';

(B) in paragraph (1), as so designated, by inserting after the first sentence the following: ''Such procedures shall require the verification of a subscriber's selection of a provider in written or oral form (including a signature or voice recording) and shall require the retention of such verification in such manner and form and for such time as the Commission considers appropriate.''; and

(C) by adding at the end the following:

''(2) VERIFICATION.—

''(A) IN GENERAL.—For purposes of paragraph (1), the verification of a subscriber's selection of a telephone exchange service or telephone toll service provider shall take the form of a written or oral communication (in the same language as the solicitation of the selection) in which the subscriber—

''(i) acknowledges the type of service to be changed as a result of the selection;

''(ii) affirms the subscriber's intent to select the provider as the provider of that service;

''(iii) affirms that the subscriber is authorized to select the provider of that service for the telephone number in question;

''(iv) acknowledges that the selection of the provider will result in a change in providers of that service;

''(v) acknowledges that only one provider may provide that service for that telephone number; and

''(vi) provides such other information as the Commission considers appropriate for the protection of the subscriber.

''(B) REQUIREMENTS FOR ORAL VERIFICATIONS.—An oral verification of a change in telephone service providers under this paragraph—

''(i) may not be made in the same communication in which the change is solicited;

''(ii) may be made only to a qualified and independent agent (as determined in accordance with regulations prescribed by the Commission) of the provider concerned; and

''(iii) shall include a prompt and clear disclosure by the agent that the purpose of the telephone call is to verify that the subscriber has consented to the change.

''(C) CONFIRMATION OF CHANGE.—A provider submitting or executing a change in telephone service providers shall notify the subscriber concerned by mail of the change not later than 5 business days after the date on which the change is executed. The confirmation shall be provided in the language in which the change was solicited.

''(D) AVAILABILITY OF VERIFICATIONS.—A provider shall make available to a subscriber a copy of a verification under this paragraph upon the request of the subscriber or an authorized representative of the subscriber.''.

(2) REGULATIONS.—The Federal Communications Commission shall complete the adoption of the regulations required under section 258(a) of the Communications Act of 1934 by reason of the amendments made by paragraph (1) not later than 270 days after the date of enactment of this Act.

(b) ADDITIONAL REMEDIES.—Such section is further amended by adding at the end the following:

''(c) PRIVATE RIGHT OF ACTION.—

''(1) PRIVATE RIGHT.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

''(A) an action based on a violation of subsection (a) or the regulations prescribed under such subsection to enjoin such violation;

''(B) an action to recover for actual monetary loss from such a violation or to receive $1,000 in damages for each such violation, whichever is greater; or

''(C) both such actions.

''(2) TREBLE DAMAGES.—If the court finds that the defendant willfully or knowingly violated subsection (a) or the regulations prescribed under such subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph (1)(B).

''(3) COSTS OF LITIGATION.—The court, in issuing any final order in an action brought pursuant to this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing plaintiff whenever the court determines that such award is appropriate.

''(d) ACTIONS BY STATES.—

''(1) AUTHORITY OF STATES.—

''(A) IN GENERAL.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in an activity or practice of activities with respect to residents of that State in violation of subsection (a) or the regulations prescribed under such subsection, the State may bring a civil action on behalf of its residents to enjoin such activities, an action to recover for the greater of actual monetary loss or $1,000 in damages for each violation, or both such actions.

''(B) TREBLE DAMAGES.—If the court finds the defendant willfully or knowingly violated such subsection or regulations, the court may, in its discretion, increase the

amount of the award to an amount equal to not more than 3 times the amount available under the subparagraph (A).

''(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—

''(A) IN GENERAL.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection.

''(B) ADDITIONAL RELIEF.—Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of subsection (a) or regulations prescribed under such subsection, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

''(3) RIGHTS OF COMMISSION.—

''(A) NOTICE.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

''(B) RIGHTS.—The Commission shall have the right—

''(i) to intervene in any action covered by subparagraph (A);

''(ii) upon so intervening, to be heard on all matters arising therein; and

''(iii) to file petitions for appeal.

''(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant or victim is found, wherein the defendant is an inhabitant or transacts business, or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

''(5) INVESTIGATORY POWERS.—For purposes of bringing a civil action under this subsection, nothing in this subsection shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing in this subsection shall be construed to prohibit any official authorized by State law from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of subsection (a) or there regulations prescribed under such subsection, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

''(8) DEFINITION.—In this subsection, the term 'attorney general' means the chief legal officer of a State.''.

**SEC. 3. REPORT ON ELECTRONIC MEANS FOR VERIFYING SUBSCRIBER AUTHORIZATIONS OF SELECTIONS OF TELEPHONE SERVICE PROVIDERS.**

Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall submit to Congress a report on the technological feasibility and practicability of permitting subscribers to authorize changes in telephone service providers by electronic means (including authorization by electronic mail or by use of personal identification numbers or other security mechanisms) without thereby increasing the likelihood of unauthorized changes in such providers.

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By Mr. LOTT (for himself, Mr. DASCHLE, Mr. CHAFEE, Mrs. LINCOLN, Mr. WARNER, and Mr. BAUCUS):

S. 1528. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions; to the Committee on Environment and Public Works.

SUPERFUND RECYCLING ACT OF 1999

Mr. LOTT. Mr. President, today I am pleased to join my distinguished colleagues, Senate Minority Leader DASCHLE, and Senators WARNER, CHAFEE, BAUCUS, and LINCOLN, in introducing the Superfund Recycling Equity Act of 1999.

This legislation, similar to that which the distinguished minority leader and I introduced in the previous Congress, removes an unintended consequence of the Superfund statute that has inhibited the growth of recycling in our nation. I am certain that when the Congress passed the Comprehensive Emergency Response, Liability and Compensation Act (CERCLA), members of both bodies did not want, and did not suggest, that traditional recyclable materials—paper, glass, plastic, metals, textiles, and rubber—should be any more subject to Superfund liability than a competitive product made of virgin material. However, that is how the courts have interpreted Superfund.

Consequently, CERCLA has created a competitive disadvantage between virgin materials used as manufacturing feedstocks and recyclable materials used for precisely the same purpose. The courts have concluded that recyclables are materials that have been disposed of and are therefore subject to Superfund liability. Even most American schoolchildren know, recycling is good for the nation—that recycling is the exact opposite of disposal. Recycling serves important national goals by keeping materials from entering the waste stream. Through recycling we reclaim useful products and materials. We use recyclables as manufacturing feedstocks just as we do virgin raw materials, but using recyclables also helps to preserve the earth's scarce resources, reduces society's energy demand, lowers water and air pollution and reduces solid waste.

Mr. President, our bill corrects this unintended consequence of Superfund. It recognizes that recycling is not disposal. That recyclers are not subject to Superfund's liability scheme should the owners of mills, foundries or refineries, to which recyclers ship their material, contaminate their facilities.

Let me highlight an example of the unintended consequence that will continue to exist without this needed clarification. A recycler sends scrap metal as feedstock to be manufactured into a new product at a mill. The same mill also uses virgin metals to make the identical product. If the mill contaminates its facility with a hazardous substance, only the recyclable becomes subject to Superfund liability. Because recyclables are considered solid wastes, the recycler's actions are considered arranging for disposal, thus creating liability. However, the shipper of the virgin material is not liable under Superfund since it shipped a product and did not ''arrange for disposal.''

The Superfund Recycling Equity Act of 1999 is essential to correct Superfund's unintended bias against recycling. It will provide the same relief from Superfund liability for legitimate recyclers as that enjoyed by those who sell virgin materials. It will also ensure that, sham recyclers will not benefit from the provisions of this bill. The Superfund Recycling Equity Act contains conditions that can only be met by legitimate recyclers of paper, glass, plastic, metals, textiles and rubber. And, to be free of liability, recyclers must act in an environmentally sound manner and sell their product to manufacturers with environmentally responsible business practices.

It is also important to note what this bill will not do. It will not relieve from liability any recycler who has contaminated his own facility. Nor will it assist recyclers who have disposed of waste at landfills or other places at which waste was the cause of a release of hazardous substances to a site that is addressed by the Superfund program.

Mr. President, the Senate Minority Leader and I previously stated our intention that, should a more comprehensive Superfund bill fail to move toward conclusion in the Senate, we would work in a bipartisan fashion, toward the goal of Superfund relief for legitimate recyclers in the 1999 session of this Congress. Members of the Environment and Public Works, led by Chairman CHAFEE, Subcommittee Chairman SMITH, and Ranking Minority Member BAUCUS, have worked extraordinarily hard to try to bring a common sense Superfund bill to the Senate floor that addresses a series of issues, including relief for recyclers. Unfortunately, once again, differences appear to have stymied that effort. I congratulate my colleagues for their efforts to address this issue. However, realizing the chances of passing a more comprehensive Superfund reform bill are now somewhat remote, it is time to address the Superfund recycling issue.

The language offered today is similar to the bipartisan measure we introduced last year. In the last Congress, the Minority Leader and I were joined by 63 of our colleagues across party and ideological lines in support of the Superfund Recycling Equity Act (S. 2180). It is now time to complete our work and provide relief—relief for recyclers that is long overdue.

There is one remaining issue regarding polychlorinated biphenyls (PCBs) in recycled paper which has been the subject of negotiations between various parties and the Administration. It is my understanding that these parties are negotiating in good faith, and that many, but not all issues, have been resolved. I have said in the past, I would be willing to modify the Superfund recycling language if the original negotiating partners agreed to a proposed language change. That remains my position. Should there be an agreement among the original negotiators on the paper PCB issue subsequent to today's introduction, I will at the earliest appropriate moment make the agreed upon change.

Mr. President, Americans have properly embraced the benefits of recycling. Americans know that increased recycling means more efficient use of natural resources and a meaningful reduction in solid waste. By removing the threat of Superfund liability for recyclers, Congress will stimulate more recycling. I urge all of my colleagues to cosponsor this pro-environment bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1528

*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 ''Superfund Recycling Equity Act of 1999''.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to promote the reuse and recycling of scrap material in furtherance of the goals of waste minimization and natural resource conservation while protecting human health and the environment;

(2) to create greater equity in the statutory treatment of recycled versus virgin materials; and

(3) to remove the disincentives and impediments to recycling created as an unintended consequence of the 1980 Superfund liability provisions.

**SEC. 3. CLARIFICATION OF LIABILITY UNDER CERCLA FOR RECYCLING TRANSACTIONS.**

(a) CLARIFICATION.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following new section:

**''SEC. 127. RECYCLING TRANSACTIONS.**

''(a) LIABILITY CLARIFICATION.—As provided in subsections (b), (c), (d), and (e), a person who arranged for recycling of recyclable material shall not be liable under section 107(a)(3) or 107(a)(4) with respect to the material.

''(b) RECYCLABLE MATERIAL DEFINED.—For purposes of this section, the term 'recyclable material' means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap; except that such term shall not include shipping containers of a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substance that form an integral part of the container) contained in or adhering thereto.

''(c) TRANSACTIONS INVOLVING SCRAP PAPER, PLASTIC, GLASS, TEXTILES, OR RUBBER.—Transactions involving scrap paper, scrap plastic, scrap glass, scrap textiles, or scrap rubber (other than whole tires) shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

''(1) The recyclable material met a commercial specification grade.

''(2) A market existed for the recyclable material.

''(3) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a new saleable product.

''(4) The recyclable material could have been a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

''(5) For transactions occurring 90 days or more after the date of enactment of this section, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person (hereinafter in this section referred to as a 'consuming facility') was in compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(6) For purposes of this subsection, 'reasonable care' shall be determined using criteria that include (but are not limited to)—

''(A) the price paid in the recycling transaction;

''(B) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material; and

''(C) the result of inquiries made to the appropriate Federal, State, or local environmental agency (or agencies) regarding the consuming facility's past and current compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material. For the purposes of this paragraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be deemed to be a substantive provision.

''(d) TRANSACTIONS INVOLVING SCRAP METAL.—

''(1) Transactions involving scrap metal shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(A) the person met the criteria set forth in subsection (c) with respect to the scrap metal;

''(B) the person was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Administrator promulgates under the Solid Waste Disposal Act subsequent to the enactment of this section and with regard to transactions occurring after the effective date of such regulations or standards; and

''(C) the person did not melt the scrap metal prior to the transaction.

''(2) For purposes of paragraph (1)(C), melting of scrap metal does not include the thermal separation of 2 or more materials due to differences in their melting points (referred to as 'sweating').

''(3) For purposes of this subsection, the term 'scrap metal' means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled, except for scrap metals that the Administrator excludes from this definition by regulation.

''(e) TRANSACTIONS INVOLVING BATTERIES.—Transactions involving spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(1) the person met the criteria set forth in subsection (c) with respect to the spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries, but the person did not recover the valuable components of such batteries; and

''(2)(A) with respect to transactions involving lead-acid batteries, the person was in compliance with applicable Federal environmental regulations or standards, and any amendments thereto, regarding the storage, transport, management, or other activities associated with the recycling of spent lead-acid batteries;

''(B) with respect to transactions involving nickel-cadmium batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of spent nickel-cadmium batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto; or

''(C) with respect to transactions involving other spent batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of such batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto.

''(f) EXCLUSIONS.—

''(1) The exemptions set forth in subsections (c), (d), and (e) shall not apply if—

''(A) the person had an objectively reasonable basis to believe at the time of the recycling transaction—

''(i) that the recyclable material would not be recycled;

''(ii) that the recyclable material would be burned as fuel, or for energy recovery or incineration; or

''(iii) for transactions occurring before 90 days after the date of the enactment of this section, that the consuming facility was not in compliance with a substantive (not procedural or administrative) provision of any Federal, State, or local environmental law

or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

''(B) the person had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling;

''(C) the person failed to exercise reasonable care with respect to the management and handling of the recyclable material (including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances); or

''(D) with respect to any item of a recyclable material, the item contained polychlorinated biphenyls at a concentration in excess of 50 parts per million or any new standard promulgated pursuant to applicable Federal laws.

''(2) For purposes of this subsection, an objectively reasonable basis for belief shall be determined using criteria that include (but are not limited to) the size of the person's business, customary industry practices (including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances), the price paid in the recycling transaction, and the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

''(3) For purposes of this subsection, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be deemed to be a substantive provision.

''(g) EFFECT ON OTHER LIABILITY.—Nothing in this section shall be deemed to affect the liability of a person under paragraph (1) or (2) of section 107(a). Nothing in this section shall be deemed to affect the liability of a person under paragraph (3) or (4) of section 107(a) with respect to materials that are not recyclable materials as defined in subsection (b) of this section.

''(h) REGULATIONS.—The Administrator has the authority, under section 115, to promulgate additional regulations concerning this section.

''(i) EFFECT ON PENDING OR CONCLUDED ACTIONS.—The exemptions provided in this section shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the United States prior to enactment of this section.

''(j) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—Any person who commences an action in contribution against a person who is not liable by operation of this section shall be liable to that person for all reasonable costs of defending that action, including all reasonable attorney's and expert witness fees.

''(k) RELATIONSHIP TO LIABILITY UNDER OTHER LAWS.—Nothing in this section shall affect—

''(1) liability under any other Federal, State, or local statute or regulation promulgated pursuant to any such statute, including any requirements promulgated by the Administrator under the Solid Waste Disposal Act; or

''(2) the ability of the Administrator to promulgate regulations under any other statute, including the Solid Waste Disposal Act.''.

(b) TECHNICAL AMENDMENT.—The table of contents for title I of such Act is amended by adding at the end the following item:

''SEC. 127. Recycling transactions.''.

Mrs. LINCOLN. Mr. President, I am pleased to join my distinguished colleagues in introducing legislation to relieve legitimate recyclers from Superfund liability.

This legislation has become necessary because of an unintended consequence of the Comprehensive Emergency Response, Compensation, and Liability Act, more commonly called Superfund. Some courts have interpreted CERCLA to mean that the sale of certain traditional recyclable feedstocks is an arrangement for the treatment or disposal of a hazardous substance and, therefore, fully subject to Superfund liability. While there exists in law and legislative history no suggestion whatsoever that the Congress intended to impede recycling in America by providing a strong preference for the use of virgin materials through the Superfund liability scheme, that is precisely what has happened.

The Superfund Recycling Equity Act of 1999 is intended to place traditional recyclable materials which are used as feedstocks in the manufacturing process on an equal footing with their virgin, or primary feedstock, counterparts. Traditional recyclables are made from paper, glass, plastic, metals, batteries, textiles, and rubber.

During the 103rd Congress I first introduced a bill to relieve legitimate recyclers of scrap metal from unintended Superfund liability. The bill was developed in conjunction with the recycling industry, the environmental community, and the Administration. All of the parties worked closely together and consistently agreed that liability relief for recyclers is necessary and right.

The language in this bill is the culmination of a process that we have been working on since the 103rd Congress. Similar language was also introduced in the 104th and 105th Congresses with the most recent version garnering almost 400 Senate and House co-sponsors. I am sure you can see, Mr. President, the push to relieve these legitimate recyclers of this unintended liability has received broad, bi-partisan support.

The Superfund Recycling Equity Act of 1999 acknowledges that Congress did not intend to subject to Superfund liability those government and private entities that collect and process secondary materials for sale as feedstocks for manufacturing. This bill removes from liability those who collect, process, and sell to manufacturers paper, glass, plastic, metal textiles, and rubber recyclables. This bill also exempts from liability those individuals who collect lead acid, nickel, cadmium, and other batteries for the recycling of the valuable components. However, this bill does not exempt chemical, solvent, sludge, or slag recycling. It addresses traditional recyclables in a CERCLA context only. We do not intend it to be viewed as a precedent for any other amendment to Superfund or to any other environmental statute, whatsoever.

It should also be clearly understood that this bill addresses the product of recyclers, that is the recyclables they sell which are utilized to make new products. This does not affect liability for contamination that is created at a facility owned or operated by a recycler. Neither does it affect liability related to any process wastes sent by a recycler for treatment or disposal. In order to assure that only bonafide recycling facilities benefit from this bill, a number of tests have been established within the bill by which liability relief will be denied to sham recyclers.

I have consistently supported Superfund reforms beginning with my time in the House and continuing in the Senate. Unfortunately, comprehensive Superfund reforms have yet to garner broad support throughout the Congress and action on recyclers has been held up in the process. Relief for legitimate recyclers has been the one portion of Superfund reform that has consistently garnered widespread, bi-partisan support. The recycling industry should no longer be denied their legitimate exemption from Superfund liability because of broader issues that do not relate to them.

Mr. President, I am aware of ongoing negotiations concerning a section within this recycling bill that applies to PCBs in paper. I want to again stress that when we began preparing for this bill in 1993, we formed a coalition of parties that all agreed upon the language within the bill. This coalition has remained until this day. These parties are currently working to amend the language of the bill to resolve this concern. Upon final agreement, I will welcome an amendment to this bill to include the resolution language.

Mr. President, there are legitimate recyclers across our nation that stand to lose their livelihoods if we don't act immediately. Legitimate recyclers that reuse and recycle the scrap leftover from our everyday processes. Legitimate recyclers that reduce the waste we put in our landfills and produce a useful product. Legitimate recyclers that were not intended by the writers of CERCLA to be burdened with liability for taking scrap metal and other products and processing them into products equivalent to virgin material.

Mr. President, we have been working toward providing this needed liability relief for legitimate recyclers for over 6 years. It is time to pass this important legislation now. Doing so will not only relieve this unintended liability but will promote recycling in our country. I urge all my colleagues to join me in support of this legislation.

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By Mr. GREGG:

S. 1530. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes; to

the Committee on Health, Education, Labor, and Pensions.

FAMILY AND MEDICAL LEAVE CLARIFICATION ACT

• Mr. GREGG. Mr. President, today marks the sixth anniversary of the implementation of the Family and Medical Leave Act. This act, as my colleagues will recall, was intended to be used by families for critical periods such as after the birth or adoption of a child and leave to care for a child, spouse, or one's own ''serious medical condition.''

Since its passage, the Family and Medical Leave Act has had a significant impact on employers' leave practices and policies. According to the Commission on Family and Medical Leave two-thirds of covered work sites have changed some aspect of their policies in order to comply with the act.

Unfortunately, the Department of Labor's implementation of certain provisions of the act has resulted in significant unintended administrative burden and costs on employers; resentment by co-workers when the act is misapplied; invasions of privacy by requiring employers to ask deeply personal questions about employees and family members planning to take FMLA leave; disruptions to the workplace due to increased unscheduled and unplanned absences; unnecessary record keeping; unworkable notice requirements; and conflicts with existing policies.

Despite these problems, which have been well documented through three separate congressional hearings, including one I chaired three weeks ago, there are those in Congress and the administration who choose to ignore those problems and instead push for imposition of the law on even smaller businesses and for purposes well beyond those judged by Congress to be the most critical. These proponents of expansion will refer to a report issued by the U.S. Commission on Leave which failed to find significant problems associated with the act.

However, the fact of the matter is, the Commission on Leave's report was issued well before the final implementing regulations were in place—regulations which are in fact the source of much of the concern over the act's implementation.

Mr. President, to consider expansion at this time is not just irresponsible, it is unconscionable.

The Department of Labor's vague and confusing implementing regulations have resulted in the FMLA being misapplied, misunderstood and mistakenly ignored. Employers aren't sure if situations like pink eye, ingrown toe nails and even the common cold will be considered by the regulators and the courts to be serious health conditions.

Because of these concerns and well documented problems with the act, I am today introducing the Family and Medical Leave Clarification Act to make reasonable and much needed changes to clarify the Family and Medical Leave Act and restore the original congressional intent.

The FMLA Clarification Act has the strong support of The Society for Human Resource Management and close to 300 leading companies and associations who make up the Family and Medical Leave Act Technical Corrections Coalition. I have received a letter of support from the Coalition and ask that it be printed in the RECORD. This broad based coalition shares my belief that both employers and employees would benefit from making certain technical corrections to the FMLA—corrections that are needed to restore congressional intent and to reduce administrative and compliance problems experienced by employers who are making a good faith effort to comply with the act.

The bill I am introducing today does several important things:

First, it repeals the Department of Labor's current regulations for ''serious health condition'' and includes language from the Democrats' own Committee Report on what types of medical conditions (such as heart attacks, strokes, spinal injuries, etc) were intended to be covered.

In passing the FMLA, Congress stated that the term ''serious health condition'' is not intended to cover short-term conditions for which treatment and recovery are very brief, recognizing that ''it is expected that such condition will fall within the most modest sick leave policies.''

The Department of Labor's current regulations are extremely expansive, defining the term ''serious health condition'' as including, among other things, any absence of more than 3 days in which the employee sees any health care provider and receives any type of continuing treatment (including a second doctor's visit, or a prescription, or a referral to a physical therapist)—such a broad definition potentially mandates FMLA leave where an employee sees a health care provider once, receives a prescription drug, and is instructed to call the health care provider back if the symptoms do not improve; the regulations also define as a ''serious health condition'' any absence for a chronic health problem, such as arthritis, asthma, diabetes, etc., even if the employee does not see a doctor for that absence and is absent for less than three days.

Second, the bill amends the act's provisions relating to intermittent leave to give employers the right to require that intermittent leave be taken in minimum blocks of 4 hours. This would minimize the misuse of FMLA by employees who use FMLA as an excuse for regular tardiness and routine justification for early departures.

Third, the bill shifts to the employee the responsibility to request leave be designated as FMLA leave, and requires the employee to provide written application within 5 working days of providing notice to the employer for foreseeable leave. With respect to unforeseeable leave, the bill requires the employee to provide, at a minimum, oral notification of the need for the leave not later than the date the leave commences unless the employee is physically or mentally incapable of providing notice or submitting the application. Under that circumstance the employee is provided such additional time as necessary to provide notice.

Shifting the burden to the employee to request leave be designated as FMLA leave eliminates the need for the employer to question the employee and pry into the employee's and the employee's family's private matters, as required under current law, and helps eliminate personal liability for employer supervisors who should not be expected to be experts in the vague and complex regulations which even attorneys have a difficult time understanding. Under current law, it is the employer's responsibility in all circumstances to designate leave, paid or unpaid, as FMLA-qualifying. Failure to do so in a timely manner or to inform an employee that a specific event does not qualify as FMLA leave may result in that unqualified leave becoming qualified leave under FMLA. This scenario has actually been upheld in Court and has placed an enormous burden on employers to respond within 48 hours of an employee's leave request. In addition, the courts have held that there is personal liability for employers under the FMLA and that an individual manager may be sued and held individually liable for acts taken based upon or relating to the FMLA. See *Freemon* v. *Foley*, 911 F. Supp. 326 (N.D. Ill. 1995) (in case of first impression in 7th Circuit, court stated, ''We believe the FMLA extends to all those who controlled 'in whole or in part' [plaintiff's] ability to take leave of absence and return to her postion'').

Fourth, with respect to leave because of the employee's own serious health condition, the bill permits an employer to require the employee to choose between taking unpaid leave provided by the FMLA or paid absence under an employer's collective bargaining agreement or other sick leave, sick pay, or disability plan, program, or policy of the employer. This change provides incentive for employers to continue their generous sick leave policies while providing a disincentive to employers considering getting rid of such employee-friendly plans, including those negotiated by the employer and the employee's union representative. Paid leave would be subject to the employer's normal work rules and procedures for taking such leave, including work rules and procedures dealing with attendance requirements.

Despite the common belief that leave under the FMLA is necessarily unpaid, employers having generous sick leave policies, or who have worked out employee-friendly sick leave programs with unions in collective bargaining agreements, are being penalized by the FMLA. In fact, for many companies,

most FMLA leave has become paid leave. According to the U.S. Commission on Leave, 66.3 percent of FMLA leave is paid (46.7 percent fully paid). This existing paid leave sandwiched on top of the broad, yet vague, FMLA definitions has resulted in employees requesting or characterizing a variety of minor situations as FMLA leave.

Mr. President, the FMLA Clarification Act is a reasonable response to the hundreds of concerns that have been raised about the act. It leaves in place the fundamental protections of the law while attempting to make changes necessary to restore FMLA to its original intent and to respond to the very legitimate concerns that have been raised. In the spirit of the FMLA I urge my colleagues to mark it's anniversary by restoring the Family and Medical Leave Act to its original congressional intent.

I asked that the bill and a letter of support be printed in the RECORD.

The material follows:

S. 1530

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Family and Medical Leave Clarification Act''.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; references; table of contents.
Sec. 2. Findings.
Sec. 3. Definition of serious health condition.
Sec. 4. Intermittent leave.
Sec. 5. Request for leave.
Sec. 6. Substitution of paid leave.
Sec. 7. Regulations.
Sec. 8. Effective date.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The Family and Medical Leave Act of 1993 (referred to in this section as the ''Act'') is not working as Congress intended when Congress passed the Act in 1993. Many employers, including those employers that are nationally recognized as having generous family-friendly benefit and leave programs, are experiencing serious problems complying with the Act.

(2) The Department of Labor's overly broad regulations and interpretations have caused many of these problems by greatly expanding the Act's coverage to apply to many nonserious health conditions.

(3) Documented problems generated by the Act include significant new administrative and personnel costs, loss of productivity and scheduling difficulties, unnecessary paperwork and recordkeeping, and other compliance problems.

(4) The Act often conflicts with employers' paid sick leave policies, prevents employers from managing absences through their absence control plans, and results in most leave under the Act becoming paid leave.

(5) The Commission on Leave, established in title III of the Act (29 U.S.C. 2631 et seq.), which reported few difficulties with compliance with the Act, failed to identify many of the problems with compliance because the study on which the report was based was conducted too soon after the date of enactment of the Act and the most significant problems with compliance arose only when employers later sought to comply with the Act's final regulations and interpretations.

**SEC. 3. DEFINITION OF SERIOUS HEALTH CONDITION.**

Section 101(11) (29 U.S.C. 2611(11)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by aligning the margins of those clauses with the margins of clause (i) of paragraph (4)(A);

(3) by inserting before ''The'' the following: ''(A) IN GENERAL.—''; and

(4) by adding at the end the following:

''(B) EXCLUSIONS.—The term does not include a short-term illness, injury, impairment, or condition for which treatment and recovery are very brief.

''(C) EXAMPLES.—The term includes an illness, injury, impairment, or physical or mental condition such as a heart attack, a heart condition requiring extensive therapy or a surgical procedure, a stroke, a severe respiratory condition, a spinal injury, appendicitis, pneumonia, emphysema, severe arthritis, a severe nervous disorder, an injury caused by a serious accident on or off the job, an ongoing pregnancy, a miscarriage, a complication or illness related to pregnancy, such as severe morning sickness, a need for prenatal care, childbirth, and recovery from childbirth, that involves care or treatment described in subparagraph (A).''.

**SEC. 4. INTERMITTENT LEAVE.**

Section 102(b)(1) (29 U.S.C. 2612(b)(1)) is amended by striking the period at the end of the second sentence and inserting the following: '', as certified under section 103 by the health care provider after each leave occurrence. An employer may require an employee to take intermittent leave in increments of up to ½ of a workday. An employer may require an employee who travels as part of the normal day-to-day work or duty assignment of the employee and who requests intermittent leave or leave on a reduced schedule to take leave for the duration of that work or assignment if the employer cannot reasonably accommodate the employee's request.''.

**SEC. 5. REQUEST FOR LEAVE.**

Section 102(e) (29 U.S.C. 2612(e)) is amended by inserting after paragraph (2) the following:

''(3) REQUEST FOR LEAVE.—If an employer does not exercise, under subsection (d)(2), the right to require an employee to substitute other employer-provided leave for leave under this title, the employer may require the employee who wants leave under this title to request the leave in a timely manner. If an employer requires a timely request under this paragraph, an employee who fails to make a timely request may be denied leave under this title.

''(4) TIMELINESS OF REQUEST FOR LEAVE.—For purposes of paragraph (3), a request for leave shall be considered to be timely if—

''(A) in the case of foreseeable leave, the employee—

''(i) provides the applicable advance notice required by paragraphs (1) and (2); and

''(ii) submits any written application required by the employer for the leave not later than 5 working days after providing the notice to the employer; and

''(B) in the case of unforeseeable leave, the employee—

''(i) notifies the employer orally of the need for the leave—

''(I) not later than the date the leave commences; or

''(II) during such additional period as may be necessary, if the employee is physically or mentally incapable of providing the notification; and

''(ii) submits any written application required by the employer for the leave—

''(I) not later than 5 working days after providing the notice to the employer; or

''(II) during such additional period as may be necessary, if the employee is physically or mentally incapable of submitting the application.''.

**SEC. 6. SUBSTITUTION OF PAID LEAVE.**

Section 102(d)(2) (29 U.S.C. 2612(d)(2)) is amended by adding at the end the following:

''(C) PAID ABSENCE.—Notwithstanding subparagraphs (A) and (B), with respect to leave provided under subparagraph (D) of subsection (a)(1), where an employer provides a paid absence under the employer's collective bargaining agreement, a welfare benefit plan under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), or under any other sick leave, sick pay, or disability plan, program, or policy of the employer, the employer may require the employee to choose between the paid absence and unpaid leave provided under this title.''.

**SEC. 7. REGULATIONS.**

(a) EXISTING REGULATIONS.—

(1) REVIEW.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall review all regulations issued before that date to implement the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), including the regulations published in sections 825.114 and 825.115 of title 29, Code of Federal Regulations.

(2) TERMINATION.—The regulations, and opinion letters promulgated under the regulations, shall cease to be effective on the effective date of final regulations issued under subsection (b)(2)(B), except as described in subsection (c).

(b) REVISED REGULATIONS.—

(1) IN GENERAL.—The Secretary of Labor shall issue revised regulations implementing the Family and Medical Leave Act of 1993 that reflect the amendments made by this Act.

(2) NEW REGULATIONS.—The Secretary of Labor shall issue—

(A) proposed regulations described in paragraph (1) not later than 90 days after the date of enactment of this Act; and

(B) final regulations described in paragraph (1) not later than 180 days after that date of enactment.

(3) EFFECTIVE DATE.—The final regulations take effect 90 days after the date on which the regulations are issued.

(c) TRANSITION.—The regulations described in subsection (a) shall apply to actions taken by an employer prior to the effective date of final regulations issued under subsection (b)(2)(B), with respect to leave under the Family and Medical Leave Act of 1993.

**SEC. 8. EFFECTIVE DATE.**

The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

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THE FMLA TECHNICAL
CORRECTIONS COALITION,
7505 INZER STREET,
*Springfield, VA, August 5, 1999.*

Hon. JUDD GREGG,
*Chairman, Subcommittee on Children and Families,*
*U.S. Senate, Washington, DC*

DEAR CHAIRMAN GREGG: On behalf of the nearly 300 members of the Family and Medical Leave Act Technical Corrections Coalition, I am writing to commend you for introducing the Family and Medical Leave Clarification Act and to offer our support. This

essential legislation would address the well-documented problems with the law's misapplication by restoring the law to reflect the original intent of Congress.

The Coalition is a diverse, broad-based, nonpartisan group of nearly 300 leading companies and associations. Members of the Coalition are fully committed to complying with both the spirit and the letter of the FMLA and strongly believe that employers should provide policies and programs to accommodate the individual work-life needs of their employees. At the same time, the Coalition believes that the FMLA should be fixed to protect those employees that Congress aimed to assist while streamlining administrative problems that have arisen. Since the FMLA is not working properly, the Coalition does not support expansions to the Act.

Thank you for the opportunity to testify before the Subcommittee during your July 14, 1999 hearing. The most disturbing finding of the hearing was the fact that the greatest cost of the FMLA's misapplication is the cost to employees themselves. A strong public record has now been thoroughly established. Numerous witnesses have now documented the unintended consequences of the FMLA's misapplication in three Congressional hearings;

1. The May 9, 1996 hearing in the Senate Subcommittee on Children and Families; 2. The June 10, 1997 hearing in the House Subcommittee on Oversight and Investigations, Committee on Education and the Workforce; and 3. Your July 14, 1999 hearing in your Senate Subcommittee on Children and Families.

The hearings demonstrated that the FMLA's definition of serious health condition is vague and overly broad due to the Department of Labor's (DOL's) interpretations. Additionally, the hearings documented that the intermittent leave provisions as misapplied by the DOL are complicated and difficult to administer, causing many serious workplace problems.

In addition, many companies expressed that Congress should consider allowing employers to permit employees to take either a paid leave package under an existing collective bargaining agreement or the 12 weeks of FMLA protected leave, whichever is greater.

It is now time for the Senate to move forward to enact ''The Family and Medical Leave Clarification Act'' on a bipartisan basis. It is our strong hope that the Family and Medical Leave Clarification Act will be fully embraced by all the original authors of the FMLA and advance quickly in the Senate with a bipartisan spirit.

Technical corrections do not need to be polarizing, combative or controversial, but they do need to be done as soon as possible, so that the FMLA operates in the manner and in the spirit that Congress intended.

We thank you for your leadership on this critical legislation and look forward to working with you to ensure its success. The entire FMLA Technical Corrections Coalition looks forward to working with you toward that end.

Respectfully,

DEANNA R. GELAK, SPHR,
*Executive Director*.●

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By Mr. MOYNIHAN:

S. 1531. A bill to amend the Act establishing Women's Rights National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Waterloo, New York; to the Committee on Energy and Natural Resources.

LEGISLATION AUTHORIZING THE PURCHASE OF THE HUNT HOUSE

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that would authorize the Secretary of the Interior to purchase the Hunt House in Seneca Falls, New York. This summer the owners of the Hunt House put it on the market for $139,000. Of four historic buildings in Seneca Falls that should be part of the Women's Rights National Historical Park, the Hunt House is the only one that is not. It was the site of the gathering of five women (the founding mothers, you might say) who decided to hold the nation's first women's rights convention. That convention took place in Seneca Falls in July, 1848. The Women's Rights Park is a monument to the idea they espoused that summer, that women should have equal right with men; one of the most influential ideas of the last 150 years.

Adding the Hunt House to the Park would complete it. The problem is that the Department was not given the authorization to purchase the Hunt House in the bill I offered 20 years ago so that speculation would not drive up the price of the house when it eventually went on the market. That worked. But now the lack of an authorization should not keep us from being able to acquire the house at all. This bill simply removes the restriction against a fee simple purchase by the Park Service. I hope my colleagues will offer their support, and I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1531

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ACQUISITION OF HUNT HOUSE.**

Section 1601(d) of Public Law 97–607 (94 Stat. 3547; 16 U.S.C. 410*ll*(d)) is amended—

(1) in the first sentence, by inserting after ''park,'' the following: ''including the Hunt House designated under subsection (c)(8),''; and

(2) in the last sentence, by striking ''McClintock'' and inserting ''Hunt''.

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By Mr. DURBIN (for himself, Mr. LEVIN, Mr. SCHUMER, and Mr. MOYNIHAN):

S. 1532. A bill to amend title 10, United States Code, to restrict the sale or other transfer of armor piercing ammunition and components of armor piercing ammunition disposed of by the Army; to the Committee on Armed Services.

MILITARY ARMOR PIERCING AMMUNITION RESALE LIMITATION ACT OF 1999

Mr. DURBIN. President, under the Conventional Demilitarization Program, the Department of Defense sells .50 caliber ammunition that has been on the shelf too long and could misfire or is otherwise unserviceable to a private company. That company refurbishes some of that ammunition and sells it to civilian buyers.

Our colleagues in the House, Representatives ROD BLAGOJEVICH and HENRY WAXMAN, asked the General Accounting Office to investigate the availability of armor-piercing .50 caliber ammunition in the United States. GAO investigators found that ''U.S.-made armor piercing fifty caliber ammunition is readily available in the United States and that this widespread availability is directly attributable to the little-known Conventional Demilitarization Program within the Department of Defense.''

I want to be sure that my colleagues know what .50 caliber rifles and ammunition can do. They can rip through bullet-proof glass, armor-plated limousines, tanks, helicopters, or aircraft from more than a mile away with deadly accuracy. They can hit targets from four miles away. Their shells can pierce five or six walls with no problem. That is just what the armor-piercing variety can do. The armor-piercing incendiary .50 caliber ammunition can do everything I just mentioned, but then can also start a fire or explode on impact. So if the sniper missed the person inside the limousine or tank or airplane with an armor piercing shell, he could instead shoot an incendiary shell and cause the target to catch fire or blow up.

Nobody goes deer hunting with a .50 caliber rifle. No one shoots a bear with .50 caliber rifle. There would be little left of the hapless animal, although I suppose fragments of it could come already barbecued if a .50 caliber incendiary shell were used.

What is this weapon good for? It is an appropriate and necessary weapon for the United States Armed Forces and has some important law enforcement uses. Its usefulness was demonstrated time and again in the Gulf War to shoot Iraqi tanks, armored vehicles, and bunkers. It is terrific for blowing up land mines and other small unexploded ordnance. The tracer variety is important for military targeting at night.

Otherwise, it is extremely useful for assassins, terrorists, drug cartels, and doomsday cults. Since 1992, the Bureau of Alcohol, Tobacco and Firearms has initiated 28 gun traces involving .50 caliber semiautomatic rifles. Many of these traces led to terrorists, outlaw motorcycle gangs, international and domestic drug traffickers, and violent criminals.

The General Accounting Office conducted an undercover investigation that revealed that ammunition dealers use an ''ask no questions'' approach to the purchase of .50 caliber ammunition. Even after undercover GAO investigators made clear to ammunition dealers that they wanted to be sure the ammunition could pierce an armor-plated limousine or could shoot down a helicopter, the dealers were perfectly willing to sell it.

In fact, there are fewer restrictions on the sale of .50 caliber weapons than on handguns. Yet a leading manufacturer of new .50 caliber ammunition, Arizona Ammunition, Inc., says it does not sell .50 caliber armor piercing, incendiary, and tracer ammunition to the general public ''because they have no sporting application.'' That leaves

the U.S. Department of Defense demilitarization contract as the source of U.S.-made .50 caliber ammunition for the civilian market.

Today I have introduced a bill that would require DoD contractors for the disposal of .50 caliber surplus military ammunition to agree not to sell the refurbished ammunition to civilians. The Defense Department must include in its contract a provision that refurbished .50 caliber may not be sold to non-military or law enforcement organizations or personnel. The Defense Department should no longer be the indirect source of ammunition that could be used for assassination, terrorism, or drug trafficking.

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. 1532

*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 ''Military Armor Piercing Ammunition Resale Limitation Act of 1999''.

**SEC. 2. RESALE OF ARMOR PIERCING AMMUNITION DISPOSED OF BY THE ARMY.**

(a) RESTRICTION.—(1) Chapter 443 of title 10, United States Code, is amended by adding at the end the following:

**''§ 4688. Armor piercing ammunition and components: condition on disposal**

''(a) LIMITATION ON RESALE OR OTHER TRANSFER.—Whenever the Secretary of the Army carries out a disposal (by sale or otherwise) of armor piercing ammunition, or a component of armor piercing ammunition, the Secretary shall require as a condition of the disposal that the recipient agree in writing not to sell or otherwise transfer any of the ammunition (reconditioned or otherwise), or any component of that ammunition, to any purchaser in the United States other than a law enforcement or other governmental agency.

''(b) DEFINITION.—In this section, the term 'armor piercing ammunition' means a center-fire cartridge the military designation of which includes the term 'armor penetrator' or 'armor piercing', including a center-fire cartridge designated as armor piercing incendiary (API) or armor-piercing incendiary-tracer (API–T).''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

''4688. Armor piercing ammunition and components: condition on disposal.''.

(b) APPLICABILITY.—Section 4688 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any disposal of ammunition or components referred to in that section after the date of the enactment of this Act.

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By Ms. SNOWE (for herself and Mr. MCCAIN):

S. 1534. A bill to reauthorize the Coastal Zone Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COASTAL ZONE MANAGEMENT ACT OF 1999

Ms. SNOWE. Mr. President, I rise today to introduce the Coastal Zone Management Act of 1999. I am pleased that Senator MCCAIN, Chairman of the Commerce Committee, is a cosponsor of this legislation. This bill reauthorizes the Coastal Zone Management Act (CZMA) through Fiscal Year 2004. This legislation will improve the qualify of life for those Americans fortunate enough to live in coastal communities and the millions of others who visit these regions each year. First and foremost, the bill recognizes the many benefits of economic development, and balances those needs with the protection of our valuable public resources.

The United States has more than 95,000 miles of coastline along the Atlantic, Pacific, and Arctic Oceans, Gulf of Mexico, and the Great Lakes. Nearly 53 percent of all Americans live in these coastal regions, but that accounts for only 11 percent of the country's total land area. This small portion of our country supports approximately 200 sea ports, contains most of our largest cities, and serves as critical habitat for a variety of plants and animals.

To help meet the growing challenges facing these coastal areas, Congress enacted the CZMA in 1972. The CZMA provides incentives to states to develop comprehensive programs that balance the many competing uses of coastal resources and to meeting the needs for the future growth of coastal communities.

As a voluntary program, the framework of the CZMA provides guidelines for state plans to address multiple environmental, societal, cultural, and economic objectives. This allows the states the flexibility necessary to prioritize management issues and utilize existing state regulatory programs and statutes wherever possible. Obviously, each state's priorities and needs are unique. That is why this bill provides maximum flexibility to states to address the diverse problems affecting our coastal areas.

The coastal zones managed under the CZMA range from the arctic to tropical islands, from sandy to rocky shorelines, and from urban to rural areas. Because of these varying habitats and resource types, no two state plan and the same, nor should they be.

Likewise, there are multiple uses of the coastal zone. Coastal managers are asked to strike a balance among residential, commercial, recreational, and industrial development; harbor development and maintenance; shoreline erosion and commercial and recreational fishing. Coastal programs address these competing needs for resources, steer activities to appropriate areas of the coast, and attempt to minimize the effects of these activities on coastal resources. As you may imagine, being able to balance economic development while protecting public resources requires careful strategies, substantial financial resources, and cooperation among stakeholders.

So far, 32 of the 35 eligible coastal states and U.S. territories have federally approved coastal zone management plans under the CZMA. Two of the remaining eligible states are currently completing their plans. I am proud to say that my state of Maine has had a federally approved plan since 1978. The approved plans cover 99% of the eligible U.S. coastline.

Another component of the CZMA is the National Estuarine Research Reserve System. These reserves not only provide habitat for a wide variety of fish, invertebrates, birds, and mammals, but they also serve as natural laboratories for research and education. There are currently 22 of these reserves in 18 states.

Mr. President, this bill authorizes $100 million to carry out the objectives of the CZMA for fiscal year 2000. The authorization level increases by $5 million each year to $120 million in FY 2004. Of the annual $5 million increase, $3.5 million would be targeted for the base state-grant programs; $1 million would be authorized for coastal zone enhancement and coastal community grant programs; and $500,000 would be authorized for the national Estuarine Research Reserve System. This bill will enable the states to build upon the successes of their management plans an confront emerging problems along our coasts. Further, this bill allows each state to maintain the flexibility it requires in order to address the specific needs of its coastal communities.

Because flexibility at the state level is a critical element of this bill, titled the Coastal Zone Management Act of 1999 allows states to establish partnerships with local communities to encourage wise and sustainable development of their public resources. As the United States' population continues to increase in coastal communities, it is imperative that we provide those communities with the capability to plan for growth. This will enable coastal communities to address open space needs, environmental protection, and infrastrasture needs.

Finally, let me say that the foundation of this legislation is the existing federal/state partnership that has made the CZMA so effective. The federal funds to implement CZMA management plans are matched by state matching monies. Some states have capitalized on the opportunities presented by the CZMA by leveraging even more money than the required match. In my state, the State of Maine, for example, the importance of investing in coastal areas has been clearly recognized and the CZMA federal funds have been matched at a rate of seven state dollars per federal dollar. Given examples like this, the potential for this reauthorization could produce several hundred million dollars for coastal zone management programs.

I believe the legislation that I am introducing today will provide states with the necessary funding and framework to meet the challenges facing our coastal communities in the 21st Century.

Mr. President, this is a solid, reasonable and realistic bill that enjoys bipartisan support on the Commerce Committee. I look forward to moving this bill at the earliest opportunity.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section explanation of the bill be printed in the RECORD.

S. 1534

*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 ''Coastal Zone Management Act of 1999''.

**SEC. 2. AMENDMENT OF COASTAL ZONE MANAGEMENT ACT.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

**SEC. 3. FINDINGS.**

Section 302 (16 U.S.C. 1451) is amended—

(1) by redesignating paragraphs (a) through (m) as paragraphs (1) through (13);

(2) by inserting ''ports,'' in paragraph (3) (as so redesignated) after ''fossil fuels,'';

(3) by inserting ''including coastal waters and wetlands,'' in paragraph (4) (as so redesignated) after ''zone,'';

(4) by striking ''therein,'' in paragraph (4) (as so redesignated) and inserting ''dependent on that habitat,'';

(5) by striking ''well-being'' in paragraph (5) (as so redesignated) and inserting ''quality of life'';

(6) by striking paragraph (11) (as so redesignated) and inserting the following:

''(11) Land and water uses in the coastal zone and coastal watersheds may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from activities in these areas must be improved;''; and

(7) by adding at the end thereof the following:

''(14) There is a need to enhance cooperation and coordination among States and local communities, to encourage local community-based solutions that address the impacts and pressures on coastal resources and on public facilities and public service caused by continued coastal demands, and to increase State and local capacity to identify public infrastructure and open space needs and develop and implement plans which provide for sustainable growth, resource protection and community revitalization.''.

**SEC. 4. POLICY.**

Section 303 (16 U.S.C. 1452) is amended—

(1) by striking ''the States'' in paragraph (2) and inserting ''State and local governments'';

(2) by striking ''waters,'' each place it appears in paragraph (2)(C) and inserting ''waters and habitats,'';

(3) by striking ''agencies and State and wildlife agencies; and'' in paragraph (2)(J) and inserting ''and wildlife management; and'';

(4) by inserting ''other countries,'' after ''agencies,'' in paragraph (5);

(5) by striking ''and'' at the end of paragraph (5);

(6) by striking ''zone.'' in paragraph (6) and inserting ''zone;''; and

(7) by adding at the end thereof the following:

''(7) to create and use a National Estuarine Research Reserve System as a Federal, State, and community partnership to support and enhance coastal management and stewardship; and

''(8) to encourage the development, application, and transfer of innovative coastal and estuarine environmental technologies and techniques for the long-term conservation of coastal ecosystems.''.

**SEC. 5. CHANGES IN DEFINITIONS.**

Section 304 (16 U.S.C. 1453) is amended—

(1) by striking ''and the Trust Territories of the Pacific Islands,'' in paragraph (4);

(2) by striking paragraph (8) and inserting the following:

''(8) The term 'estuarine reserve' means a coastal protected area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to the estuary, and which constitutes to the extent feasible a natural unit, established to provide long-term opportunities for conducting scientific studies and educational and training programs that improve the understanding, stewardship, and management of estuaries.''; and

(3) by adding at the end thereof the following:

''(19) The term 'coastal nonpoint pollution control plan' means a plan submitted by a coastal state to the Secretary under section 306(d)(16).''.

**SEC. 6. REAUTHORIZATION OF MANAGEMENT PROGRAM DEVELOPMENT GRANTS.**

Section 305(a) (16 U.S.C. 1454(a)) is amended by striking ''1997, 1998, and 1999,'' and inserting ''2000, 2001, 2002, 2003, and 2004,''.

**SEC. 7. REAUTHORIZATION OF ADMINISTRATIVE GRANTS.**

(a) PURPOSES.—Section 306(a) (16 U.S.C. 1455(a)) is amended by inserting ''including developing and implementing coastal nonpoint pollution control program components,'' after ''program,''.

(b) ACQUISITION CRITERIA.—Section 306(d)(10)(B) (16 U.S.C. 1455(d)(10)(B)) is amended by striking ''less than fee simple'' and inserting ''other''.

**SEC. 8. COASTAL RESOURCE IMPROVEMENT PROGRAM.**

Section 306A (16 U.S.C. 1455a) is amended—

(1) by adding at the end of subsection (a) the following:

''(3) The term 'qualified local entity' means—

''(A) any local government;

''(B) any areawide agency referred to in section 204(a)(1) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334 (a)(1));

''(C) any regional agency;

''(D) any interstate agency; and

''(E) any reserve established under section 315.'';

(2) by inserting ''or other important coastal habitats'' in subsection (b)(1) after ''306(d)(9)'';

(3) by inserting ''or historic'' in subsection (b)(2) after ''urban'';

(4) by adding at the end of subsection (b) the following:

''(5) The coordination and implementation of approved coastal nonpoint pollution control plans.

''(6) The preservation, restoration, enhancement or creation of coastal habitats.'';

(5) by striking ''and'' after the semicolon in subsection (c)(2)(D);

(6) by striking ''section.'' in subsection (c)(2)(E) and inserting ''section ;'';

(7) by adding at the end of subsection (c)(2) the following:

''(F) work, resources, or technical support necessary to preserve, restore, enhance, or create coastal habitats; and

''(G) the coordination and implementation of approved coastal nonpoint pollution control plans.''; and

(8) by striking subsections (d), (e), and (f) and inserting after subsection (c) the following:

''(d) SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—

''(1) IN GENERAL.—If a coastal state chooses to fund a project under this section, then—

''(A) it shall submit to the Secretary a combined application for grants under this section and section 306;

''(B) it shall match the combined amount of such grants in the ratio required by section 306(a) for grants under that section; and

''(C) the Federal funding for the project shall be a portion of that State's annual allocation under section 306(a).

''(2) USE OF FUNDS.—Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

''(e) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—With the approval of the Secretary, the eligible coastal State may allocate to a qualified local entity a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that State of the responsibility for ensuring that any funds so allocated are applied in furtherance of the State's approved management program.

''(f) ASSISTANCE.—The Secretary shall assist eligible coastal States in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (b).''.

**SEC. 9. COASTAL ZONE MANAGEMENT FUND.**

(a) TREATMENT OF LOAN REPAYMENTS.—Section 308(a)(2) (16 U.S.C. 1456a(a)(2)) is amended to read as follows:

''(2) Loan repayments made under this subsection—

''(A) shall be retained by the Secretary and deposited into the Coastal Zone Management Fund established under subsection (b); and

''(B) subject to amounts provided in Appropriations Acts, shall be available to the Secretary for purposes of this title and transferred to the Operations, Research, and Facilities account of the National Oceanic and Atmospheric Administration to offset the costs of implementing this title.''.

(b) USE OF AMOUNTS IN FUND.—Section 308(b) (16 U.S.C. 1456a(b)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) Subject to Appropriation Acts, amounts in the Fund shall be available to the Secretary to carry out the provisions of this Act.''.

**SEC. 10. COASTAL ZONE ENHANCEMENT GRANTS.**

Section 309 (16 U.S.C. 1456b) is amended—

(1) by striking subsection (a)(1) and inserting the following:

''(1) Protection, restoration, enhancement, or creation of coastal habitats, including wetlands, coral reefs, marshes, and barrier islands.'';

(2) by inserting ''and removal'' after ''entry'' in subsection (a)(4);

(3) by striking ''on various individual uses or activities on resources, such as coastal wetlands and fishery resources.'' in subsection (a)(5) and inserting ''of various individual uses or activities on coastal waters, habitats, and resources, including sources of polluted runoff.'';

(4) by adding at the end of subsection (a) the following:

''(10) Development and enhancement of coastal nonpoint pollution control plan components, including the satisfaction of conditions placed on such programs as part of the Secretary's approval of the programs.

''(11) Significant emerging coastal issues as identified by coastal states, in consultation with the Secretary and qualified local entities.'';

(5) by striking ''proposals, taking into account the criteria established by the Secretary under subsection (d).'' in subsection (c) and inserting ''proposals.'';

(6) by striking subsection (d) and redesignating subsection (e) as subsection (d); and

(7) by striking subsection (f) and redesignating subsection (g) as subsection (e).

**SEC. 11. COASTAL COMMUNITY PROGRAM.**

The Act is amended by inserting after section 309 the following:

**''SEC. 309A. COASTAL COMMUNITY PROGRAM.**

''(a) COASTAL COMMUNITY GRANTS.—The Secretary may make grants to any coastal state that is eligible under subsection (b)—

''(1) to assist coastal communities in assessing and managing growth, public infrastructure, and open space needs in order to provide for sustainable growth, resource protection and community revitalization;

''(2) to provide management-oriented research and technical assistance in developing and implementing community-based growth management and resource protection strategies in qualified local entities;

''(3) to fund demonstration projects which have high potential for improving coastal zone management at the local level; and

''(4) to assist in the adoption of plans, strategies, policies, or procedures to support local community-based environmentally-protective solutions to the impacts and pressures on coastal uses and resources caused by development and sprawl that will—

''(A) revitalize previously developed areas;

''(B) undertake conservation activities and projects in undeveloped and environmentally sensitive areas;

''(C) emphasize water-dependent uses; and

''(D) protect coastal waters and habitats.

''(b) ELIGIBILITY.—To be eligible for a grant under this section for a fiscal year, a coastal state shall—

''(1) have a management program approved under section 306; and

''(2) in the judgment of the Secretary, be making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (K).

''(c) SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—If a coastal state chooses to fund a project under this section, then—

''(1) it shall submit to the Secretary a combined application for grants under this section and section 309;

''(2) it shall match the amount of the grant under this section on the basis of a total contribution of section 306, 306A, and this section so that, in aggregate, the match is 1:1; and

''(3) the Federal funding for the project shall be a portion of that State's annual allocation under section 309.

''(d) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—

''(1) IN GENERAL.—With the approval of the Secretary, the eligible coastal State may allocate to a qualified local entity amounts received by the State under this section.

''(2) ASSURANCES.—A coastal state shall ensure that amounts allocated by the State under paragraph (1) are used by the qualified local entity in furtherance of the State's approved management program, specifically furtherance of the coastal management objectives specified in section 303(2).

''(e) ASSISTANCE.—The Secretary shall assist eligible coastal States and qualified local entities in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (a).''.

**SEC. 12. TECHNICAL ASSISTANCE.**

Section 310(b) (16 U.S.C. 1456c(b)) is amended by adding at the end thereof the following:

''(4) The Secretary may conduct a program to develop and apply innovative coastal and estuarine environmental technology and methodology through a cooperative program. The Secretary may make extramural grants in carrying out the purpose of this subsection.''.

**SEC. 13. PERFORMANCE REVIEW.**

Section 312(a) (16 U.S.C. 1458(a)) is amended by adding ''coordinated with National Estuarine Research Reserves in the State'' after ''303(2)(A) through (K)''.

**SEC. 14. WALTER B. JONES AWARDS.**

Section 314 (16 U.S.C. 1461) is amended—

(1) by striking ''shall, using sums in the Coastal Zone Management Fund established under section 308'' in subsection (a) and inserting ''may, using sums available under this Act'';

(2) by striking ''field.'' in subsection (a) and inserting the following: ''field of coastal zone management. These awards, to be known as the 'Walter B. Jones Awards', may include—

''(1) cash awards in an amount not to exceed $5,000 each;

''(2) research grants; and

''(3) public ceremonies to acknowledge such awards.'';

(3) by striking ''shall—'' in subsection (b) and inserting ''may select annually if funds are available under subsection (a)—''; and

(4) by striking subsection (e).

**SEC. 15. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.**

(a) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking ''consists of—'' and inserting ''is a network of areas protected by Federal, State, and community partnerships which promotes informed management of the Nation's estuarine and coastal areas through interconnected programs in resource stewardship, education and training, and scientific understanding consisting of—''.

(b) Section 315(b)(2)(C) (16 U.S.C. 1461(b)(2)(C)) is amended by striking ''public education and interpretation; and''; and inserting ''education, interpretation, training, and demonstration projects; and''.

(c) Section 315(c) (16 U.S.C. 1461(c)) is amended—

(1) by striking ''RESEARCH'' in the subsection caption and inserting ''RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP'';

(2) by striking ''conduct of research'' and inserting ''conduct of research, education, and resource stewardship'';

(3) by striking ''coordinated research'' in paragraph (1)) and inserting ''coordinated research, education, and resource stewardship'';

(4) by striking ''research'' before ''principles'' in paragraph (2);

(5) by striking ''research programs'' in paragraph (2) and inserting ''research, education, and resource stewardship programs'';

(6) by striking ''research'' before ''methodologies'' in paragraph (3);

(7) by striking ''data,'' in paragraph (3) and inserting ''information,'';

(8) by striking ''research'' before ''results'' in paragraph (3);

(9) by striking ''research purposes;'' in paragraph (3) and inserting ''research, education, and resource stewardship purposes;'';

(10) by striking ''research efforts'' in paragraph (4) and inserting ''research, education, and resource stewardship efforts'';

(11) by striking ''research'' in paragraph (5) and inserting ''research, education, and resource stewardship''; and

(12) by striking ''research'' in the last sentence.

(d) Section 315(d) (16 U.S.C. 1461(d)) is amended—

(1) by striking ''ESTUARINE RESEARCH.—'' in the subsection caption and inserting ''ESTUARINE RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP.—'';

(2) by striking ''research purposes'' and inserting ''research, education, and resource stewardship purposes'';

(3) by striking paragraph (1) and inserting the following:

''(1) giving reasonable priority to research, education, and stewardship activities that use the System in conducting or supporting activities relating to estuaries; and'';

(4) by striking ''research.'' in paragraph (2) and inserting ''research, education, and resource stewardship activities.''; and

(5) by adding at the end thereof the following:

''(3) establishing partnerships with other Federal and State estuarine management programs to coordinate and collaborate on estuarine research.''.

(e) Section 315(e) (16 U.S.C. 1461(e)) is amended—

(1) by striking ''reserve,'' in paragraph (1)(A)(i) and inserting ''reserve; and'';

(2) by striking ''and constructing appropriate reserve facilities, or'' in paragraph (1)(A)(ii) and inserting ''including resource stewardship activities and constructing reserve facilities.'';

(3) by striking paragraph (1)(A)(iii);

(4) by striking paragraph (1)(B) and inserting the following:

''(B) to any coastal State or public or private person for purposes of—

''(i) supporting research and monitoring associated with a national estuarine reserve that are consistent with the research guidelines developed under subsection (c); or

''(ii) conducting educational, interpretive, or training activities for a national estuarine reserve that are consistent with the education guidelines developed under subsection (c).'';

(5) by striking ''therein or $5,000,000, whichever amount is less.'' in paragraph (3)(A) and inserting ''therein. Non-Federal costs associated with the purchase of any lands and waters, or interests therein, which are incorporated into the boundaries of a reserve up to 5 years after the costs are incurred, may be used to match the Federal share.'';

(6) by striking ''and (iii)'' in paragraph (3)(B);

(7) by striking ''paragraph (1)(A)(iii)'' in paragraph (3)(B) and inserting ''paragraph (1)(B)'';

(8) by striking ''entire System.'' in paragraph (3)(B) and inserting ''System as a whole.''; and

(9) by adding at the end thereof the following:

''(4) The Secretary may—

''(A) enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with any nonprofit organization, authorizing the organization to solicit donations to carry out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section; and

''(B) accept donations of funds and services for use in carrying out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section.

Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States for the purpose of carrying out this section.''.

(f) Section 315(f)(1) (16 U.S.C. 1461(f)(1)) is amended by inserting ''coordination with other State programs established under sections 306 and 309A,'' after ''including''.

**SEC. 16. COASTAL ZONE MANAGEMENT REPORTS.**

Section 316 (16 U.S.C. 1462) is amended—

(1) by striking ''to the President for transmittal'' in subsection (a);

(2) by striking ''zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences;'' and insert ''zone;'' in the provision designated as (10) in subsection (a);

(3) by adding ''education,'' after the ''studies,'' in the provision designated as (12) in subsection (a);

(4) by striking ''Secretary'' in the first sentence of subsection (c)(1) and inserting ''Secretary, in consultation with coastal States, and with the participation of affected Federal agencies,'';

(5) by striking the second sentence of subsection (c)(1) and inserting the following: ''The Secretary, in conducting such a review, shall coordinate with, and obtain the views of, appropriate Federal agencies.'';

(6) by striking ''shall promptly'' in subsection (c)(2) and inserting ''shall, within 4 years after the date of enactment of the Coastal Zone Management Act of 1999,''; and

(7) by adding at the end of subsection (c)(2) the following: ''If sufficient funds and resources are not available to conduct such a review, the Secretary shall so notify the Congress.''.

**SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

Section 318 (16 U.S.C. 1464) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

''(1) for grants under sections 306 and 306A,—

''(A) $55,500,000 for fiscal year 2000;

''(B) $59,000,000 for fiscal year 2001;

''(C) $62,500,000 for fiscal year 2002;

''(D) $66,000,000 for fiscal year 2003; and

''(E) $69,500,000 for fiscal year 2004;

''(2) for grants under sections 309 and 309A,—

''(A) $20,000,000 for fiscal year 2000;

''(B) $21,000,000 for fiscal year 2001;

''(C) $22,000,000 for fiscal year 2002;

''(D) $23,000,000 for fiscal year 2003; and

''(E) $24,000,000 for fiscal year 2004;

''(3) for grants under section 315,—

''(A) $7,000,000 for fiscal year 2000;

''(B) $7,500,000 for fiscal year 2001;

''(C) $8,000,000 for fiscal year 2002;

''(D) $8,500,000 for fiscal year 2003; and

''(E) $9,000,000 for fiscal year 2004;

''(4) for grants to fund construction projects at estuarine reserves designated under section 315, $12,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004; and

''(5) for costs associated with administering this title, $5,500,000 for fiscal year 2000 and such sums as are necessary for fiscal years 2001-2004.'';

(2) by striking ''306 or 309.'' in subsection (b) and inserting ''306.'';

(3) by striking ''during the fiscal year, or during the second fiscal year after the fiscal year, for which'' in subsection (c) and inserting ''within 3 years from when'';

(4) by striking ''under the section for such reverted amount was originally made available.'' in subsection (c) and inserting ''to States under this Act.''; and

(5) by adding at the end thereof the following:

''(d) PURCHASE OF OTHERWISE UNAVAILABLE FEDERAL PRODUCTS AND SERVICES.—Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

''(e) RESTRICTION ON USE OF AMOUNTS FOR PROGRAM, ADMINISTRATIVE, OR OVERHEAD COSTS.—Except for funds appropriated under subsection (a)(5), amounts appropriated under this section shall be available only for grants to States and shall not be available for other program, administrative, or overhead costs of the National Oceanic and Atmospheric Administration or the Department of Commerce.''.

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SECTION-BY-SECTION OF THE COASTAL ZONE MANAGEMENT ACT OF 1999

Section 1. Section 1 provides the title of the Bill: Coastal Zone Management Act of 1999.

Section 2. Section 2 specifies that amendments and repeals shall be applied to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) (CZMA).

Section 3. Section 3 amends the CZMA congressional findings to update emerging issues and to reflect the need for Federal and state support of local community-based comprehensive planning and solutions to local problems.

Section 4. Section 4 amends the congressional declarations of policy to support the National Estuarine Research Reserve System (NERRS) and to encourage the use of innovative technologies in the coastal zone.

Section 5. Section 5 amends the CZMA definitions to clarify the terms ''estuarine reserve'' and ''coastal nonpoint pollution control plan'' and to clarify that ''coastal state'' no longer includes the trust territories of the Pacific Island, i.e. the now independent nation of Palau.

Section 6. Section 6 amends section 305(a) of the CZMA to ensure that resources are available to the remaining states without approved coastal management programs to complete such program development.

Section 7. Section 7 amends section 306 to reauthorize the base administrative grant program and clarifies which programs are eligible for grants under this section.

Section 8. Section 8 amends section 306A, the coastal resource improvement grants, by defining the term ''qualified local entity.'' Section 8 broadens the objectives to which that Secretary of Commerce (Secretary) may allocate funds and provides states with the option of allocating funds for restoration and preservation of coastal habitats as well as the continued implementation of the states' coastal nonpoint plans.

Section 9. Section 9 amends section 308, the coastal zone management fund, by moving CZMA program administration to section 318, transfer load repayments to the Operations, Research and Facilities account, and deletes the annual reporting requirement.

Section 10. Section 10 amends section 309, the coastal zone enhancement grants, by adding two new objectives to which the Secretary may allocate funds and provides states with the option of allocating funds for restoration and preservation of coastal habitats as well as the continued implementation of the states' coastal nonpoint plans. Section 10 also amends section 309(d) by removing outdated sections and amends section 309(f) to remove the $10,000,000 cap on annual section 309 allocations to conform with increasing authorization levels.

Section 11. The Coastal Community Program creates a new grant option section 309A) for states that want to focus on coastal community-based initiatives. This section demonstrates the need for Federal and state support of community-based planning, strategies, and solutions to local sprawl and development issues in the coastal zone. This section allows the Secretary to make grants to states through the base program allocation formula and requires that the states match the amount of the grant so that section 306, 306A and this section, in aggregate, equal a 1:1 match. It will also revitalize previously developed areas, promote conservation projects in environmentally sensitive areas, emphasize water dependent uses, and protect coastal habitats.

Section 12. Section 12 amends section 310, technical assistance, to allow the Secretary to conduct a cooperative program to apply innovative technologies to the coastal zone.

Section 13. Section 13 amends section 312(a), performance review, by adding coordination with the national estuarine research reserves to the review of performance process.

Section 14. Section 14 amends section 314 of the CZMA to allow the Secretary the discretion to issue the Walter B. Jones Awards if funds are available.

Section 15. Section 15 amends section 315 of the CZMA to clarify and strengthen the National Estuarine Research Reserve System. A majority of the amendments are technical changes to include training, education and stewardship concepts. This section clarifies the NERRS description and allows the Secretary to enter into contracts and agreements with non-profit organizations to carry out projects that support reserves and to accept donations of funds or services for projects consistent with the purposes of section 315.

Section 16. Section 16 amends section 316 of the CZMA to clarify the requirements for the reports to Congress and to provide to Congress a report on federal agency coordination and cooperation in coastal management.

Section 17. Section 17 amends section 318, authorization of appropriations, to authorize CZMA funding, providing a separate line items for 306 and 306A, 309 and 309A, 315, a NERRS construction fund, and administrative costs.

• Mr. MCCAIN. Mr. President, I rise today in support of the National Marine Sanctuaries Amendments Act of 1999. I want to thank Senator Snowe for sponsoring this legislation. This bill will help guide the use of the our marine environment into the next century. Again, I wish to thank Senator SNOWE for her leadership in this area.

The 12 existing national marine sanctuaries protect our marine resources while facilitating ''compatible'' public and private uses of the ocean. The National Marine Sanctuaries Program reflects a responsible balance between conservation and multiple uses, such as commercial fishing and recreational activities. In addition, the national sanctuaries provide for important research, outreach, and educational activities involving unique marine assets.

To date, the sanctuary program has been unable to reach its full potential due to a lack of funding. This bill will make existing sanctuaries fully operational for the first time in the history of the program. The bill we are introducing today authorizes $30 million in FY 2000 and incrementally increases the annual authorization by $2 million a year to $38 million in FY 2004. The bill will also allow for the completion of basic tasks which have been neglected in the past at sanctuaries, such as a review of each sanctuary management plan and habitat characterizations. The research and educational opportunities provided by this legislation are quite promising and will allow our children and future generations to learn to value our ocean resources.

The bill also provides for the implementation of meaningful enforcement plans and allows sanctuaries to partner with states or other entities to enhance enforcement efforts. Furthermore, interference with an enforcement agent could result in a criminal penalty.

Mr. President, this is a strong bill that enjoys bipartisan support on the Commerce Committee. With this legislation, Senator SNOWE and I envision a reasonable balance between conservation and the compatible multiple uses of our ocean resources in marine sanctuaries. I look forward to moving this bill in the near future and request the support of my colleagues.●

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By Mr. GRAMS:

S. 1535. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under part B of the Medicare program, and for other purposes; to the Committee on Finance.

MEDICARE ENSURING PRESCRIPTION DRUGS FOR SENIORS ACT

● Mr. GRAMS. Mr. President, I rise today to introduce legislation I've drafted to provide a prescription drug benefit for Medicare beneficiaries.

While I firmly believe we must deal directly with the structural problems facing the Medicare program, I also understand the very real need to provide prescription drug coverage now.

Mr. President, Americans might be surprised to learn there are estimates that about half the people who have ever—ever—reached age 65 are alive today. It's a revealing statistic—one we should be proud of because America has had much to do with the success in lengthening the life expectancy of nearly everyone in the world. Whether it's through government-funded research at the National Institutes of Health or private research funded through foundations, it has all contributed to this success.

In 1900, the average American could expect to see their 47th birthday. Today, Americans can expect to celebrate 29 more birthdays—living to the age of 76. Clearly, this increased life expectancy can be attributed to many things, but the advances made in pharmaceuticals is, perhaps, the most significant contributor.

When the Medicare program was being discussed by Congress in the 1960s, no one could foresee the enormous change our health care system would experience over the course of thirty years. Of course, we couldn't have expected them to know how different things would be today.

In the 1960s, health care was predominately hospital or clinic oriented and as a result, Medicare focused on hospital stays. Indeed, even months before the final Medicare package was passed there was debate over whether physician visits should be included in the program. Now, we find ourselves with a program going broke, but in need of reform—a program largely successful for the past 30 years, but woefully inadequate in meeting the needs of today's seniors.

Mr. President, one of the first witnesses before the Bipartisan Commission on the Future of Medicare, Robert Reischauer, described Medicare's problems as the four ''i's:'' insolvency, inadequacy, inefficiency and inequity. I couldn't agree more.

As I alluded to earlier, perhaps the best example of the inadequacy of the current Medicare program is the lack of a prescription drug benefit. While I continue to believe the best way for us to include a prescription drug benefit in Medicare is through overall reform, I also believe it is important for us to explore different ways we can meet the challenge of adding the benefit without undermining the entire program.

In putting together my plan for providing a prescription benefit, I tried to keep in mind the root of our dilemma. Many make the mistake of thinking access to needed pharmaceuticals is the problem. It's not—affording the increasing number and cost of prescriptions is the real problem facing seniors today.

Mr. President, my plan, the ''MEDS Act of 1999,'' would work like this:

Single seniors with incomes of $927 per month or less, will be eligible to receive their prescription drugs with a 25 percent co-payment and no deductible. Married seniors with incomes of $1,244 per month or less will be eligible for the same co-payment of 25 percent with no deductible.

The income figures are the equivalent of 135 percent of the federal poverty level.

Seniors above the income limits will be protected through a monthly deductible of $150. For amounts over those deductibles, Medicare will pay 75 percent of the prescription cost.

Mr. President, rather than using a yearly deductible, which, in the first months, forces many seniors to use more of their monthly income on prescription drugs than they can often afford, my plan uses a monthly deductible allowing seniors to budget their drug costs every month.

In addition, it ensures that if a senior, such a your parent or grandparent, is seriously ill in one month, Medicare will cover 75 percent of their drug costs with no caps on the benefit. Meaning, they get the help they need when they need it.

While I understand there will be concerns about how we determine when a beneficiary has reached their $150 deductible, particularly on a monthly basis, I contend that we have the knowledge and technology necessary to structure the program nearly any way we wish—we simply have to use it.

Mr. President, America's seniors understand that if their drug costs are $50 a month, it doesn't make sense for them to buy a drug insurance policy for $100 a month. In this case, prescription drug coverage is not the issue. The issue is, can the senior trying to get by an $600 a month afford the $50 or $75 a month to pay for their medications? And, in the event of a major illness, can a senior bear the entire cost of treatment during that particular month?

My plan would make sure that person gets relief when the costs become too much to handle. It is truly a safety net for seniors and especially for those who would not otherwise be able to reap the benefits of modern medicine.

I believe this is a responsible, credible plan for America's seniors. I hope it will serve as a starting point for an honest, rational and responsible discussion about who needs help and how much.

While I applaud the President for putting forward a plan, I believe it falls short in one important way—it doesn't help those who need it most.

President Clinton's plan requires all seniors to pay $288 in monthly premiums and a co-payment of 50 percent up to $2,000. Under the President's plan, the most benefit any senior could get is $712 and, by capping the benefit at $2,000, it abandons seniors when they need help most.

The debate over prescription drug coverage and overall Medicare reform may be political for some, but I know seniors in Minnesota who have difficulty paying for their prescriptions don't think much of political games played by politicians in Washington. They won't care who takes credit for this or that. They just want to know they won't go broke or hungry to pay for the medicines they need to stay alive. The plan I introduce today, the Medicare Ensuring Prescription Drugs for Seniors (MEDS) Act, will help ensure that they won't.●

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By Mr. DEWINE:

S. 1536. A bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE OLDER AMERICANS ACT OF 1999

● Mr. DEWINE. Mr. President, I am very pleased to introduce The Older Americans Act of 1999—a bill that will reauthorize some of the most important, vital, and successful programs the Federal government provides to senior citizens.

The Older Americans Act created and is responsible for:

Programs that provide nutrition both at home and at senior community centers;

Programs that protect the elderly from abuse, neglect, and unhealthy nursing homes;

Programs that offer valuable jobs to seniors;

Programs that furnish transportation; and

Programs that render in-home services such as assistance with house-hold tasks.

As we approach the new millennium, these services and many others become more and more important—in fact, essential—to the continued well-being and prosperity of our nation's senior community. We are an aging nation. Today, 12.7% of the United States' population is over the age of 65. By the year 2030, that number will grow to 20%, and there is no indication that this trend will subside. Americans are living longer; many of them are healthier, wealthier, and better educated than Americans from two generations or even one generation ago.

The Older Americans Act is a key component in ensuring not only valuable supportive services to lower-income older Americans, but also in establishing new and reliable services from which every older American can benefit.

First, I want to focus on the services this reauthorization guarantees will continue—and for which, we hope, it will secure additional funding. The largest, and one of the most important, portions of the Older Americans Act has always been nutrition programming. There are two essential and equally important parts of the Act's nutrition programming: meals served in senior citizens centers, and meals delivered to individuals' homes.

Providing meals in congregate settings allows people to eat with friends, take advantage of other social or informative opportunities, and be assured of a healthy diet.

Home delivered meal programs give homebound individuals similar assurances of a healthy diet. Additionally, programs such as Meal-On-Wheels also often give homebound seniors their only contact with the community. Those who deliver meals will also often help with minor chores and make sure that the senior they are visiting is in good general health.

Under this reauthorization, congregate meal funding is protected by maintaining the law's language allowing a State to transfer no more than 30% of its congregate meal funding to home-delivered programs. Likewise, States will receive increased flexibility, through a waiver process, to request that any necessary amount be moved from congregate meal funds to meet the growing needs of homebound seniors.

Another established service that would be improved by this bill is advocacy and protection. After a hearing that the Subcommittee on Aging dedicated to the issue of elder abuse, we made sure to include protection for elders not only from physical abuse and neglect, but also from financial abuse and exploitation. We also tied State and local advocacy and protection services directly to State and local law enforcement agencies as well as to the court system.

During another of the Subcommittee on Aging's several hearings, we discussed the Senior Community Employment Service Program—the only Federally funded jobs program geared specifically for older Americans. The bill makes sure that the initial focus of the program, to provide seniors opportunities in community service jobs, stays intact. However, in light of the changing demographics among many senior communities and more and more seniors staying very active and capable for longer periods of time, the bill creates another focus: employment in the private sector and in a wider array of jobs.

To do this, the bill creates strong links between the recently passed Workforce Investment Act and the Senior Community Employment Service Program. This will allow qualified seniors easy access to their State's workforce investment system and enhance their opportunity to choose which jobs they want. Likewise, these links will provide seniors in the State workforce investment systems easy access to the Senior Community Employment Service Program.

Mr. President, as I mentioned, in addition to highlighting and improving the essential services that the Older Americans Act has provided so well for so long, this reauthorization also establishes new and equally reliable services from which every older American will be able to benefit.

I thank Senator GRASSLEY, and the Senate's Special Committee on Aging, for all his work, hearings, research, and help in developing two such services. The first is the National Family Caregiver Support Act, and the second is the Older Americans Act's new Pension Counseling program.

The National Family Caregiver Support Act, through a network of Area Agencies on Aging and service providers, will provide family members—nonprofessional or informal caregivers—valuable information and assistance about how to begin and continue caring for an aging relative. During another of our Subcommittee hearings, we heard moving testimony from a woman who decided that instead of placing her mother in a costly nursing home that would provide questionable care, she would bring her mother home and give her the care and attention she believed her mother needed and deserved.

She did this at no small cost to herself. She had to discontinue her doctorate program. She had to find a job that had more accommodating hours and unfortunately with lower pay. She found that the State agency on aging and other bureaucratic ''assistance'' were more trouble than they were worth.

She needed advice about lifting her mother, feeding her mother, medications, and many other challenges. Most of all, however, she said she just needed a break. The critical part of the National Family Caregiver Support Act would give her that break in the form of respite care; someone to take over for her for a weekend, a day, even a few hours so she could shop for herself, complete some overtime work, or just rest.

The Caregiver Support Act also introduces an inter-generational element. During the Subcommittee's field hearing in Cleveland, we heard from grandmothers who, for any number of reasons, were now caring for their grandchildren. In some cases, their own children were addicted to drugs or in prison. Rather than relinquish their grandchildren to foster care, they took on the responsibilities of raising them. These women, and many other older Americans who now are raising children for the second time around, also need help. They need guidance, information, and respite care. Our bill would do that.

Another new initiative is the Pension Counseling program. This program would provide desperately needed assistance to retirees who are in jeopardy of losing their pensions or are having difficulty receiving their pensions payments. As more and more individuals retire with more complicated pension, cost sharing, and IRA retirement plans, this will become an invaluable service.

Mr. President, the Older Americans Act of 1999 will accomplish some long overdue changes. Reauthorizing this Act is a key step toward preparing this nation for the aging boom of the next few decades. However, I want to emphasize that as promising as this legislation is—and as encouraged as I am by its introduction—it is still a work in progress. There are outstanding issues that need further attention and that require additional compromise. I look forward to working with all of my colleagues to resolve these issues throughout the August recess.

I would like to thank Senator MILKULSKI, the Subcommittee's ranking member, for all her work, expertise, and assistance in developing this bill. I would also like to thank Senator GREGG for establishing the ground work as the Subcommittee's previous Chairman and for his expertise and input. Thank you also to Senators HUTCHINSON, JEFFORDS, MCCAIN, KENNEDY, and WYDEN for all they and their staffs have contributed to the bill.

I look forward to continuing our work on this bill, to quickly resolving any outstanding concerns, and moving on to final passage of a new and long awaited Older Americans Act.●

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By Mr. CHAFEE (for himself and Mr. SMITH of New Hampshire):

S. 1537. A bill to reauthorize and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Environment and Public Works.

SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1999

Mr. CHAFEE. Mr. President, I rise today to introduce the Superfund Amendments and Reauthorization Act of 1999. This bill is based on S. 1090, the Superfund Program Completion Act of

1999, a bill that I introduced, along with Senators SMITH and LOTT, earlier this year.

Last year, the Committee reported a comprehensive Superfund bill to the Senate. However, gaining a consensus on a comprehensive bill was not possible last year, and the bill was not called up. The most controversial issues were cleanup standards, paying ''polluters,'' and natural resource damages.

In S. 1090, we narrowed the scope of the bill greatly to get relief now for many parties—small businesses, local governments, municipal solid waste contributors—and we did it fairly, while strengthening the role of the states.

Our goal was always to report a bill that enjoyed wide support. Unfortunately, Senator SMITH and I were not able to move S. 1090 out of the committee. We spent several months negotiating with members on both sides of the aisle. The bill that Senator SMITH and I introduce today serves as a record of our progress in trying to craft a broadly-supported Superfund reform bill.

The bill contains numerous changes from S. 1090. Some changes were made prior to the markup. Others are based on amendments filed for the markup, and others in response to negotiations over the last week.

Our bills retains the key features of S. 1090. The Brownfields title will provide $100 million in grants for state, tribal and local governments to identify, assess and redevelop Brownfields sites. It protects prospective purchasers of contaminated sites, innocent owners of properties adjacent to the source of contamination, and innocent property owners who exercised due diligence upon purchase.

The bill exempts recyclers, small businesses, contributors of very small amounts of hazardous waste, and contributors of small amounts of municipal solid waste. The bill limits the liability of larger generators or transporters of municipal solid waste. The bill limits the liability of larger generators or transporters of municipal solid waste, as well as owners or operators of co-disposal landfills where municipal solid waste is disposed. The bill limits the liability of so-called de minimis parties—generally one percent contributors or less—as well as municipalities and small businesses with a limited ability to pay.

Importantly, this liability relief is provided fairly. EPA is directed to pay for the shares of exempted parties from a $200 million annual orphan share instead of merely shifting the liability onto the remaining nonexempt parties. Importantly, responsible parties still must proceed with the cleanup if $200 million is insufficient to cover all orphan shares in a given year.

The bill also requires EPA to perform an impartial fair-share allocation at Superfund NPL sites and to give all parties an opportunity to settle for their allocated amount. Allocation is preceded by a period for EPA-directed alternative dispute resolution. Parties that do not participate or settle remain liable to Superfund's underlying liability provisions, which remain unchanged.

The bill starts the process of bringing the National Priority List cleanup program to an orderly end. EPA notes that cleanup is complete or underway at more than 90 percent of the sites on the current NPL. EPA is cleaning up the sites at a rate of 85 per year, but it has listed only an average of about 26 sites per year. Last year, the General Accounting Office surveyed the states and EPA about the approximately 3,000 sites identified as possible National Priority List sites, but not yet listed. Only 232 of these sites were identified by either EPA, a state, or both, as likely to be listed on the NPL. The Superfund NPL cleanup program is closer to the end of its mission than to the beginning. The authorized funding levels in the bill, which decrease during the five-year authorization period, are consistent with the expected decrease in Superfund's workload.

The ramp-down of the NPL cleanup program has important implications for state cleanup programs. The bill provides $100 million per year for state cleanup programs. Therefore, the bill requires EPA to plan how it will proceed at the 3,000 sites still awaiting a decision regarding NPL listing. Further, under our bill, new listings on the National Priority List must be approved by the Governor of the affected state.

What is most important, the bill provides finality at sites cleaned up in state cleanup programs unless a state asks for help, fails to take action, or a true emergency is present. We know that the vast majority of sites not already listed on the NPL will be cleaned up by the states, not EPA. A strong finality provision will give greater confidence to prospective developers that state cleanup decisions will not be second-guessed by EPA. I would note that the bill includes new safeguards, not present in S.1090 as-introduced, to ensure a robust federal safety net if a state fails to meet its obligations.

How does this bill differ from S. 1090? In preparation for the markup, members filed several amendments that Senator SMITH and I plan to accept. Senator BOND filed several amendments to improve the brownfields provisions and protect law enforcement activities from Superfund liability. Senator THOMAS filed an amendment to clarify the liability of common carriers and railroad spur track owners. Senator INHOFE filed an amendment to encourage the recycling of used oil, and another to improve the state cleanup program provisions. Senator SMITH and I filed an amendment to study the costs of the Superfund program over the next ten years. All of these amendments are included in the new bill.

Senator SMITH and I have also included an amendment that we filed containing narrow provisions in two areas not originally addressed in S.1090: natural resource damages, and remedy. We offered the language in our negotiations in order to try to accommodate the concerns of Republicans members who felt that the scope of the bill was too narrow. We felt these provisions would solve most of the concerns that were raised without completely reopening the debates on NRD and remedy.

The new remedy provisions would accomplish three things. First, it makes improvements to the system of identifying and applying the applicable relevant and appropriate requirements of other federal and state laws in Superfund cleanups. Second, the existing statutory preference for permanent remedies that use treatment is replaced by a preference limited to so-called ''hot spots.'' This comports with EPA's current practice, where 70% of all cleanup plans include containment instead of removal of the hazardous substance. Finally, new provisions establish procedures for the use of facility-specific risk assessments and the use of science in decision-making. This provision was closely modeled on the recent Safe Drinking Water Act Amendment.

The new natural resource damages provision makes four significant changes to the NRD program.

First, it provides a clear statement as to what costs a responsible party will be required to bear under a natural resource damage claim. A responsible party will be liable for only for the reasonable costs of restoring the resource—that is for reinstating the human uses and environmental functions of the resource.

Second, it would eliminate recovery for any damages based on the nonuse values associated with an injured resource. Proponents of nonuse damages have argued that these damages are an important element of recovery in cases where a resource like the Grand Canyon is injured or destroyed. Our provision addresses this issue more directly. Instead, it recognizes that certain resources, such as endangered species, or wilderness areas, or certain national monuments are truly unique and therefore warrant special consideration. The language provides that where a unique resource has been damaged and is irreplaceable, the trustees may seek enhanced or expedited restoration.

Third, it set parameters for determining whether the costs associated with a restoration measure are reasonable. Under this bill, the reasonableness of the costs will be determined based on four factors: technical feasibility, cost-effectiveness, the time period in which recovery will be achieved; and whether the response action or natural recovery will reinstate the uses of a resource in a reasonable period of time. This provision is not intended to require a cost-benefit analysis. However, it is intended to require that trustees select cost-effective restoration measures.

Fourth, it clarifies the prohibition against double recovery. It would protect responsible parties against claims under section 107(f) if damages have already been recovered for the same injury to the same resource under CERCLA, State or Tribal law.

It is clear that we have moved a long way to try to reach an accommodation on both the right and the left. Perhaps this new bill can serve as the rallying-point if prospects for Superfund improve later in the Congress. In closing, I want to thank Senator SMITH for his efforts on Superfund over the years.

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. 1537

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Superfund Amendments and Reauthorization Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BROWNFIELDS REVITALIZATION

Sec. 101. Brownfields.
Sec. 102. Contiguous properties.
Sec. 103. Prospective purchasers and windfall liens.
Sec. 104. Safe harbor innocent landholders.

TITLE II—STATE RESPONSE PROGRAMS

Sec. 201. State response programs.
Sec. 202. National Priorities List completion.
Sec. 203. Federal emergency removal authority.
Sec. 204. State cost share.

TITLE III—FAIR SHARE LIABILITY ALLOCATIONS AND PROTECTIONS

Sec. 301. Liability exemptions and limitations.
Sec. 302. Expedited settlement for certain parties.
Sec. 303. Fair share settlements and statutory orphan shares.
Sec. 304. Treatment of religious, charitable, scientific, and educational organizations as owners or operators.

TITLE IV—REMEDY SELECTION AND NATURAL RESOURCE DAMAGES

Sec. 401. Selection and implementation of remedial actions.
Sec. 402. Use of risk assessment in remedy selection.
Sec. 403. Natural resource damages.
Sec. 404. Double recovery.

TITLE V—FUNDING

Sec. 501. Uses of Hazardous Substance Superfund.

## TITLE I—BROWNFIELDS REVITALIZATION

**SEC. 101. BROWNFIELDS.**

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

**''SEC. 127. BROWNFIELDS.**

''(a) DEFINITIONS.—In this section:

''(1) BROWNFIELD FACILITY.—

''(A) IN GENERAL.—The term 'brownfield facility' means real property, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance.

''(B) INCLUSION.—The term 'brownfield facility' includes real property that is contaminated with cocaine, heroin, methamphetamine, or any other controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), a precursor chemical to a controlled substance, or a residual chemical from the manufacture of a controlled substance.

''(C) EXCLUSIONS.—The term 'brownfield facility' does not include—

''(i) any portion of real property that, as of the date of submission of an application for assistance under this section, is the subject of an ongoing removal under this title;

''(ii) any portion of real property that has been listed on the National Priorities List or is proposed for listing as of the date of the submission of an application for assistance under this section;

''(iii) any portion of real property with respect to which cleanup work is proceeding in substantial compliance with the requirements of an administrative order on consent, or judicial consent decree that has been entered into, or a permit issued by, the United States or a duly authorized State under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(iv) a land disposal unit with respect to which—

''(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(II) closure requirements have been specified in a closure plan or permit;

''(v) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

''(vi) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(C) FACILITIES OTHER THAN BROWNFIELD FACILITIES.—That a facility may not be a brownfield facility within the meaning of subparagraph (A) has no effect on the eligibility of the facility for assistance under any provision of Federal law other than this section.

''(2) ELIGIBLE ENTITY.—

''(A) IN GENERAL.—The term 'eligible entity' means—

''(i) a general purpose unit of local government;

''(ii) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

''(iii) a government entity created by a State legislature;

''(iv) a regional council or group of general purpose units of local government;

''(v) a redevelopment agency that is chartered or otherwise sanctioned by a State;

''(vi) a State; and

''(vii) an Indian Tribe.

''(B) EXCLUSION.—The term 'eligible entity' does not include any entity that is not in substantial compliance with the requirements of an administrative order on consent, judicial consent decree that has been entered into, or a permit issued by, the United States or a duly authorized State under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) with respect to any portion of real property that is the subject of the administrative order on consent, judicial consent decree, or permit.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(b) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants for the site characterization and assessment of brownfield facilities.

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT AND RESPONSE ACTIONS.—

''(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make grants to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities.

''(B) SITE CHARACTERIZATION AND ASSESSMENT.—A site characterization and assessment carried out with the use of a grant under subparagraph (A)—

''(i) shall be performed in accordance with section 101(35)(B); and

''(ii) may include a process to identify and inventory potential brownfield facilities.

''(c) BROWNFIELD REMEDIATION GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—In consultation with the Secretary, the Administrator shall establish a program to provide grants to be used for response actions (excluding site characterization and assessment) at 1 or more brownfield facilities.

''(2) ASSISTANCE FOR RESPONSE ACTIONS.—On approval of an application made by an eligible entity, the Administrator, in consultation with the Secretary, may make grants to the eligible entity to be used for response actions (excluding site characterization and assessment) at 1 or more brownfield facilities.

''(d) GENERAL PROVISIONS.—

''(1) MAXIMUM GRANT AMOUNT.—

''(A) IN GENERAL.—The total of all grants under subsections (b) and (c) shall not exceed, with respect to any individual brownfield facility covered by the grants, $350,000.

''(B) WAIVER.—The Administrator may waive the $350,000 limitation under subparagraph (A) based on the anticipated level of contamination, size, or status of ownership of the facility, so as to permit the facility to receive a grant of not to exceed $600,000.

''(2) PROHIBITION.—

''(A) IN GENERAL.—No part of a grant under this section may be used for payment of penalties, fines, or administrative costs.

''(B) EXCLUSIONS.—For the purposes of subparagraph (A), the term 'administrative cost' does not include the cost of—

''(i) investigation and identification of the extent of contamination;

''(ii) design and performance of a response action; or

''(iii) monitoring of natural resources.

''(3) AUDITS.—The Inspector General of the Environmental Protection Agency shall conduct such reviews or audits of grants under this section as the Inspector General considers necessary to carry out the objectives of this section. Audits shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

''(4) LEVERAGING.—An eligible entity that receives a grant under this section may use the funds for part of a project at a brownfield facility for which funding is received from other sources, but the grant shall be used only for the purposes described in subsection (b) or (c).

''(5) AGREEMENTS.—Each grant made under this section shall be subject to an agreement that—

''(A) requires the eligible entity to comply with all applicable State laws (including regulations);

''(B) requires that the eligible entity shall use the grant exclusively for purposes specified in subsection (b) or (c);

''(C) in the case of an application by an eligible entity under subsection (c), requires payment by the eligible entity of a matching share (which may be in the form of a contribution of labor, material, or services) of at least 20 percent of the costs of the response action for which the grant is made, is from non-Federal sources of funding.

''(D) contains such other terms and conditions as the Administrator determines to be necessary to carry out this section.

''(e) GRANT APPLICATIONS.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a grant under this section for 1 or more brownfield facilities.

''(B) COORDINATION.—In developing application requirements, the Administrator shall coordinate with the Secretary and other Federal agencies and departments, such that eligible entities under this section are made aware of other available Federal resources.

''(C) GUIDANCE.—The Administrator shall publish guidance to assist eligible entities in obtaining grants under this section.

''(2) APPROVAL.—The Administrator, in consultation with the Secretary, shall make an annual evaluation of each application received during the prior fiscal year and make grants under this section to eligible entities that submit applications during the prior year and that the Administrator, in consultation with the Secretary, determines have the highest rankings under the ranking criteria established under paragraph (3).

''(3) RANKING CRITERIA.—The Administrator, in consultation with the Secretary, shall establish a system for ranking grant applications that includes the following criteria:

''(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

''(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

''(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

''(ii) The demonstration by applicants of the intent and ability to create new or expand existing business, employment, recreation, or conservation opportunities on completion of any necessary response action.

''(iii) If commercial redevelopment is planned, the estimated additional full-time employment opportunities and tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

''(iv) The estimated extent to which a grant would facilitate the identification of or facilitate a reduction of health and environmental risks.

''(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

''(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

''(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.

''(C) The extent to which a grant will enable the creation of or addition to parks, greenways, or other recreational property.

''(D) The extent to which a grant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield facility is located because of the small population or low income of the community.''.

**SEC. 102. CONTIGUOUS PROPERTIES.**

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended by adding at the end the following:

''(o) CONTIGUOUS PROPERTIES.—

''(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—

''(A) IN GENERAL.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

''(i) the person did not cause, contribute, or consent to the release or threatened release;

''(ii) the person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility;

''(iii) the person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance;

''(iv) the person provides full cooperation, assistance, and access to persons that are responsible for response actions at the vessel or facility from which there has been a release or threatened release, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility;

''(v) the person does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility; and

''(vi) the person complies with any request for information or administrative subpoena issued by the President under this Act.

''(B) GROUND WATER.—With respect to hazardous substances in ground water beneath a person's property solely as a result of subsurface migration in an aquifer from a source or sources outside the property, appropriate care shall not require the person to conduct ground water investigations or to install ground water remediation systems.

''(2) ASSURANCES.—The Administrator may—

''(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

''(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).''.

(b) NATIONAL PRIORITIES LIST.—

(1) IN GENERAL.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(A) in subsection (a)(8)—

(i) in subparagraph (B), by inserting ''and'' after the semicolon at the end; and

(ii) by adding at the end the following:

''(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

''(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

''(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''; and

(B) by adding at the end the following:

''(h) LISTING OF PARTICULAR PARCELS.—

''(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

''(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) limits the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.''.

(2) REVISION OF NATIONAL PRIORITIES LIST.—

(A) IN GENERAL.—The President shall annually revise the National Priorities List to conform with the amendments made by paragraph (1), based on individual delisting recommendations made by each Regional Administrator of the Environmental Protection Agency.

(B) DELISTED PARCELS.—In complying with this paragraph, the President shall delist not more than 20 individual parcels of real property from the National Priorities List in any 1 calendar year.

(c) CONFORMING AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by striking ''of this section'' and inserting ''and the exemptions and limitations stated in this section''.

**SEC. 103. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.**

(a) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

''(39) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All deposition of hazardous substances at the facility occurred before the person acquired the facility.

''(B) INQUIRIES.—

''(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

''(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and access to persons that are responsible for response actions at the vessel or facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility.

''(F) INSTITUTIONAL CONTROL.—The person does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility.

''(G) REQUESTS; SUBPOENAS.—The person complies with any request for information or administrative subpoena issued by the President under this Act.

''(H) NO AFFILIATION.—The person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility.''.

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 102) is amended by adding at the end the following:

''(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

''(2) LIEN.—If there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n)(1) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from an appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

''(3) CONDITIONS.—The conditions referred to in paragraph (2) are the following:

''(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

''(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

''(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

''(4) AMOUNT.—A lien under paragraph (2)—

''(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

''(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

''(C) shall be subject to the requirements of subsection (l)(3); and

''(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.''.

**SEC. 104. SAFE HARBOR INNOCENT LANDHOLDERS.**

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

(1) in subparagraph (A)—

(A) in the matter that precedes clause (i), by striking ''deeds or'' and inserting ''deeds, easements, leases, or''; and

(B) in the matter that follows clause (iii)—

(i) by striking ''he'' and inserting ''the defendant''; and

(ii) by striking the period at the end and inserting '', has provided full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility, and has taken no action that impeded the effectiveness or integrity of any institutional control employed under section 121 at the facility.''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) REASON TO KNOW.—

''(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that—

''(I) at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices; and

''(II) the defendant took reasonable steps to stop any continuing release, prevent any threatened future release, and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(ii) STANDARDS AND PRACTICES.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

''(I) the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

''(II) alternative standards and practices under clause (iii).

''(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

''(I) IN GENERAL.—The Administrator may by regulation issue alternative standards and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

''(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall consider including each of the following:

''(aa) The results of an inquiry by an environmental professional.

''(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

''(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

''(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

''(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

''(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

''(gg) Specialized knowledge or experience on the part of the defendant.

''(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

''(ii) Commonly known or reasonably ascertainable information about the property.

''(jj) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

''(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.''.

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)) not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

## TITLE II—STATE RESPONSE PROGRAMS

**SEC. 201. STATE RESPONSE PROGRAMS.**

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 103(a)) is amended by adding at the end the following:

''(40) FACILITY SUBJECT TO STATE CLEANUP.—The term 'facility subject to State cleanup' means a facility that—

''(A) is not listed or proposed for listing on the National Priorities List; or

''(B) has been proposed for listing on the National Priorities List, but for which the Administrator has notified the State in writing that the Administrator has deferred final listing of the facility pending completion of a remedial action under State authority at the facility.

''(41) QUALIFYING STATE RESPONSE PROGRAM.—The term 'qualifying State response program' means a State program that includes the elements described in section 128(b).''.

(b) QUALIFYING STATE RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 101(a)) is amended by adding at the end the following:

**''SEC. 128. QUALIFYING STATE RESPONSE PROGRAMS.**

''(a) ASSISTANCE TO STATES.—The Administrator shall provide grants to States to establish and expand qualifying State response programs that include the elements listed in subsection (b).

''(b) ELEMENTS.—The elements of a qualifying State response program are the following:

''(1) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

''(A) response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

''(B) in the case of a voluntary response action, if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

''(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in appropriate circumstances, in selecting response actions.

''(3) Mechanisms for approval of a response action plan, or a requirement for certification or similar documentation from the State to the person conducting a response action indicating that the response is complete.

''(c) ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO A STATE PLAN.—

''(1) ENFORCEMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a release or threatened release of a hazardous substance at a facility subject to State cleanup, neither the President nor any other person may use any authority under this Act to take an enforcement action against any person regarding any matter that is within the scope of a response action that is being conducted or has been completed under State law.

''(B) EXCEPTIONS.—The President may bring an enforcement action under this Act with respect to a facility described in subparagraph (A) if—

''(i) the enforcement action is authorized under section 104;

''(ii) the State requests that the President provide assistance in the performance of a response action and that the enforcement bar in subparagraph (A) be lifted;

''(iii) at a facility at which response activities are ongoing the Administrator—

''(I) makes a written determination that the State is unwilling or unable to take appropriate action, after the Administrator has provided the Governor notice and an opportunity to cure; and

''(II) the Administrator determines that the release or threat of release constitutes a public health or environmental emergency under section 104(a)(4);

''(iv) the Administrator determines that contamination has migrated across a State line, resulting in the need for further response action to protect human health or the environment; or

''(v) in the case of a facility at which all response actions have been completed, the Administrator—

''(I) makes a written determination that the State is unwilling or unable to take appropriate action, after the Administrator has provided the Governor notice and an opportunity to cure; and

''(II) makes a written determination that the facility presents a substantial risk that requires further remediation to protect human health or the environment, as evidenced by—

''(aa) newly discovered information regarding contamination at the facility;

''(bb) the discovery that fraud was committed in demonstrating attainment of standards at the facility; or

''(cc) a failure of the remedy or a change in land use giving rise to a clear threat of exposure.

''(C) EPA NOTIFICATION.—

''(i) IN GENERAL.—In the case of a facility at which there is a release or threatened release of a hazardous substance, pollutant, or contaminant and for which the Administrator intends to undertake an administrative or enforcement action, the Administrator, prior to taking the administrative or enforcement action, shall notify the State of the action the Administrator intends to take and wait for an acknowledgment from the State under clause (ii).

''(ii) STATE RESPONSE.—Not later than 48 hours after receiving a notice from the Administrator under clause (i), the State shall notify the Administrator if the facility is currently or has been subject to a cleanup conducted under State law.

''(iii) PUBLIC HEALTH OR ENVIRONMENTAL EMERGENCY.—If the Administrator finds that a release or threatened release constitutes a public health or environmental emergency under section 104(a)(4), the Administrator may take appropriate action immediately after giving notification under clause (i) without waiting for State acknowledgment.

''(2) COST OR DAMAGE RECOVERY ACTIONS.—Paragraph (1) shall not apply to an action brought by a State, Indian Tribe, or general purpose unit of local government for the recovery of costs or damages under this Act.

''(3) SAVINGS PROVISION.—

''(A) EXISTING AGREEMENTS.—A memorandum of agreement, memorandum of understanding, or similar agreement between the President and a State or Indian tribe defining Federal and State or tribal response action responsibilities that was in effect as of the date of enactment of this section with respect to a facility to which paragraph (1)(C) does not apply shall remain effective until the agreement expires in accordance with the terms of the agreement.

''(B) NEW AGREEMENTS.—Nothing in this subsection precludes the President from entering into an agreement with a State or Indian tribe regarding responsibility at a facility to which paragraph (1)(C) does not apply.

''(4) STATE REIMBURSEMENT AND CERTIFICATION.—

''(A) IN GENERAL.—On making a finding under this section that a State is unwilling or unable to take appropriate action to address a public health or environmental emergency, the President may require that the State reimburse the Hazardous Substance Superfund for response costs incurred by the United States.

''(B) CERTIFICATION.—On making a finding under this section that a State is unwilling or unable to take appropriate action to address a public health or environmental emergency at 3 separate facilities within any 1-year period, the President may notify the Governor of the State that this section shall not apply in the State until the President certifies that the State's cleanup program is adequate to ensure that response actions will protect human health and the environment.''.

**SEC. 202. NATIONAL PRIORITIES LIST COMPLETION.**

(a) IN GENERAL.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended by striking subsection (b) and inserting the following:

''(b) NATIONAL PRIORITIES LIST COMPLETION.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the President shall complete the evaluation of all facilities classified as awaiting a National Priorities List decision to determine the risk or danger to public health or welfare or the environment posed by each facility as compared with the other facilities.

''(2) REQUIREMENT OF REQUEST BY THE GOVERNOR OF A STATE.—No facility shall be added to the National Priorities List without the President having first received the concurrence of the Governor of the State in which the facility is located.''.

(b) INDEPENDENT CERCLA COST ANALYSIS.—

(1) IN GENERAL.—From amounts appropriated under section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), the Administrator shall fund a cooperative agreement for an independent analysis of the projected 10-year costs for the implementation of the program under that Act.

(2) COMPLETION.—The independent analysis under paragraph (1) shall be completed not later than 180 days after the date of enactment of this Act.

**SEC. 203. FEDERAL EMERGENCY REMOVAL AUTHORITY.**

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C), by striking ''consistent with the remedial action to be taken'' and inserting ''not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility,'';

(2) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) by striking ''12 months'' and inserting ''3 years''.

**SEC. 204. STATE COST SHARE.**

Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking ''(c)(1) Unless'' and inserting the following:

''(c) MISCELLANEOUS LIMITATIONS AND REQUIREMENTS.—

''(1) CONTINUANCE OF OBLIGATIONS FROM FUND.—Unless'';

(2) in paragraph (1), by striking ''taken obligations'' and inserting ''taken, obligations'';

(3) by striking ''(2) The President'' and inserting the following:

''(2) CONSULTATION.—The President''; and

(4) by striking paragraph (3) and inserting the following:

''(3) STATE COST SHARE.—

''(A) IN GENERAL.—The Administrator shall not provide any funding for remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator that provides assurances that the State will pay, in cash or through in-

kind contributions, 10 percent of the costs of—

''(i) the remedial action; and

''(ii) operation and maintenance costs.

''(B) STATE-OPERATED FACILITIES.—Notwithstanding subparagraph (A), the Administrator may require a State contribution, in cash or in-kind, of 50 percent of the costs of any sums expended in response to a release at a facility that was operated by the State or a political subdivision of the State, either directly or through a contractual relationship or otherwise, at the time of any disposal of hazardous substances therein.

''(C) ACTIVITIES WITH RESPECT TO WHICH STATE COST SHARE IS REQUIRED.—No State cost share shall be required except for remedial actions under this section.

''(D) INDIAN TRIBES.—The requirements of this paragraph shall not apply in the case of remedial action to be taken on land or water—

''(i) held by an Indian Tribe;

''(ii) held by the United States in trust for an Indian Tribe;

''(iii) held by a member of an Indian Tribe (if the land or water is subject to a trust restriction on alienation); or

''(iv) within the borders of an Indian reservation.''.

## TITLE III—FAIR SHARE LIABILITY ALLOCATIONS AND PROTECTIONS

### SEC. 301. LIABILITY EXEMPTIONS AND LIMITATIONS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9601) (as amended by section 201(a)) is amended by adding at the end the following:

''(42) CODISPOSAL LANDFILL.—The term 'codisposal landfill' means a landfill that—

''(A) was listed on the National Priorities List as of the date of enactment of this paragraph;

''(B) received for disposal municipal solid waste or sewage sludge; and

''(C) may also have received, before the effective date of requirements under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), any hazardous waste, if the landfill contains predominantly municipal solid waste or sewage sludge that was transported to the landfill from outside the facility.

''(43) MUNICIPAL SOLID WASTE.—

''(A) IN GENERAL.—The term 'municipal solid waste' means waste material generated by—

''(i) a household (such as a single- or multifamily residence) or a public lodging (such as a hotel or motel); or

''(ii) a commercial, institutional, or industrial source, to the extent that—

''(I) the waste material is substantially similar to waste normally generated by a household or public lodging (without regard to differences in volume); or

''(II) the waste material is collected and disposed of with other municipal solid waste or municipal sewage sludge as part of normal municipal solid waste collection services, and, with respect to each source from which the waste material is collected, qualifies for a de micromis exemption under section 107(r).

''(B) INCLUSIONS.—The term 'municipal solid waste' includes food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

''(C) EXCLUSIONS.—The term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or municipal incinerators or waste from manufacturing or processing (including pollution control) operations.

''(44) MUNICIPALITY.—

''(A) IN GENERAL.—The term 'municipality' means a political subdivision of a State (including a city, county, village, town, township, borough, parish, school district, sanitation district, water district, or other public entity performing local governmental functions).

''(B) INCLUSIONS.—The term 'municipality' includes a natural person acting in the capacity of an official, employee, or agent of any entity described in subparagraph (A) in the performance of a governmental function.

''(45) SEWAGE SLUDGE.—The term 'sewage sludge' means solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste water at or by publicly owned treatment works.''.

(b) EXEMPTIONS AND LIMITATIONS.—

(1) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 103(b)) is amended by adding at the end the following:

''(q) LIABILITY EXEMPTION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person shall be liable to the United States or to any other person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List to the extent that—

''(1) the person is liable solely under paragraph (3) or (4) of subsection (a);

''(2) the person is liable based on an arrangement for disposal or treatment of, an arrangement with a transporter for transport for disposal or treatment of, or an acceptance for transport for disposal or treatment at a facility of, municipal solid waste;

''(3) the person provides full cooperation, assistance, and access to persons that are responsible for response actions at the vessel or facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility;

''(4) the person does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility;

''(5) the person complies with any request for information or administrative subpoena issued by the President under this Act; and

''(6) the person is—

''(A) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated;

''(B) a business entity that, during the tax year preceding the date of transmittal of written notification that the business is potentially liable, employs not more than 100 individuals; or

''(C) a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that employs not more than 100 individuals, from which all of the person's municipal solid waste was generated.

''(r) DE MICROMIS CONTRIBUTOR EXEMPTION.—

''(1) IN GENERAL.—In the case of a vessel or facility listed on the National Priorities List, no person described in paragraph (3) or (4) of subsection (a) shall be liable to the United States or to any other person (including liability for contribution) for any response costs under this section if the activity specifically attributable to the person resulted in the disposal or treatment of not more than 200 pounds or 110 gallons of material containing a hazardous substance at the vessel or facility before the date of enactment of this subsection, or such greater amount as the Administrator may determine by regulation.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Administrator determines that material described in paragraph (1) has contributed or may contribute significantly, individually, to the amount of response costs at the facility.

''(s) SMALL BUSINESS EXEMPTION.—

''(1) IN GENERAL.—No person shall be liable to the United States or to any person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List if—

''(A) the person is liable solely under paragraph (3) or (4) or subsection (a);

''(B) the person is a business that—

''(i) during the taxable year preceding the date of transmittal of notification that the business is a potentially responsible party, had full- and part-time employees whose combined time was equivalent to 75 or fewer full-time employees; or

''(ii) for that taxable year reported $3,000,000 or less in gross revenue;

''(C) the activity specifically attributable to the person resulted in the disposal or treatment of material containing a hazardous substance at the vessel or facility before the date of enactment of this subsection;

''(D) the person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility;

''(E) the person provides full cooperation, assistance, and access to persons that are responsible for response actions at the vessel or facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility;

''(F) the person does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility; and

''(G) the person complies with any request for information or administrative subpoena issued by the President under this Act.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the material containing a hazardous substance referred to in subparagraph (A) contributed significantly or could contribute significantly to the cost of the response action with respect to the facility.

''(t) MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE EXEMPTION AND LIMITATIONS.—

''(1) CONTRIBUTION OF MUNICIPAL SOLID WASTE AND MUNICIPAL SEWAGE SLUDGE.—

''(A) IN GENERAL.—The condition stated in this subparagraph is that the liability of the potentially responsible party is for response costs based on paragraph (3) or (4) of subsection (a) and on the potentially responsible party's having arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment of, municipal solid waste or municipal sewage sludge at a facility listed on the National Priorities List.

''(B) SETTLEMENT AMOUNT.—

''(i) IN GENERAL.—The President shall offer a settlement to a party referred to in clause (i) with respect to liability under paragraph (3) or (4) of subsection (a) on the basis of a payment of $5.30 per ton of municipal solid waste or municipal sewage sludge that the President estimates is attributable to the party.

''(ii) REVISION.—

''(I) IN GENERAL.—The President may revise the settlement amount under clause (i) by regulation.

''(II) BASIS.—A revised settlement amount under subclause (I) shall reflect the estimated per-ton cost of closure and post-closure activities at a representative facility containing only municipal solid waste.

''(C) CONDITIONS.—The provisions for settlement described in this subparagraph shall not apply with respect to a facility where there is no waste except municipal solid waste or municipal sewage sludge.

''(D) ADJUSTMENT FOR INFLATION.—The Administrator may by guidance periodically adjust the settlement amount under subparagraph (B) to reflect changes in the Consumer Price Index (or other appropriate index, as determined by the Administrator).

''(2) MUNICIPAL OWNERS AND OPERATORS.—

''(A) AGGREGATE LIABILITY OF LARGE MUNICIPALITIES.—

''(i) IN GENERAL.—With respect to a codisposal landfill that is owned or operated in whole or in part by municipalities with a population of 100,000 or more (according to the 1990 census), and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate amount of liability of such municipal owners and operators for response costs under this section shall be not greater than 20 percent of such costs.

''(ii) INCREASED AMOUNT.—The President may increase the percentage under clause (i) to not more than 35 percent with respect to a municipality if the President determines that the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility.

''(iii) DECREASED AMOUNT.—The President may decrease the percentage under clause (i) with respect to a municipality to not less than 10 percent if the President determines that the municipality took specific acts of mitigation during the operation of the facility to avoid environmental contamination or exposure with respect to the facility.

''(B) AGGREGATE LIABILITY OF SMALL MUNICIPALITIES.—

''(i) IN GENERAL.—With respect to a codisposal landfill that is owned or operated in whole or in part by municipalities with a population of less than 100,000 (according to the 1990 census), that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate amount of liability of such municipal owners and operators for response costs under this section shall be not greater than 10 percent of such costs.

''(ii) INCREASED AMOUNT.—The President may increase the percentage under clause (i) to not more than 20 percent with respect to a municipality if the President determines that the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility.

''(iii) DECREASED AMOUNT.—The President may decrease the percentage under clause (i) with respect to a municipality to not less than 5 percent if the President determines that the municipality took specific acts of mitigation during the operation of the facility to avoid environmental contamination or exposure with respect to the facility.

''(3) APPLICABILITY.—This subsection shall not apply to—

''(A) a person that acted in violation of subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) at a facility that is subject to a response action under this title, if the violation pertains to a hazardous substance the release of threat of release of which caused the incurrence of response costs at the facility;

''(B) a person that owned or operated a codisposal landfill in violation of the applicable requirements for municipal solid waste landfill units under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) after October 9, 1991, if the violation pertains to a hazardous substance the release of threat of release of which caused the incurrence of response costs at the facility; or

''(C) a person under section 122(p)(2)(G).

''(4) PERFORMANCE OF RESPONSE ACTIONS.—As a condition of a settlement with a municipality under this subsection, the President may require that the municipality perform or participate in the performance of the response actions at the facility.

''(5) NOTICE OF APPLICABILITY.—The President shall provide a potentially responsible party with notice of the potential applicability of this section in each written communication with the party concerning the potential liability of the party.

''(u) RECYCLING TRANSACTIONS.—

''(1) LIABILITY CLARIFICATION.—As provided in paragraphs (2), (3), (4), and (5) of this subsection, a person who arranged for the recycling of recyclable material or transported such material shall not be liable under paragraphs (3) or (4) of subsection (a) with respect to such material. A determination whether or not any person shall be liable under paragraph (3) or (4) of subsection (a) for any transaction not covered by paragraphs (2) and (3), (4), or (5) of this subsection shall be made, without regard to paragraphs (2), (3), (4) and (5) of this subsection, on a case-by-case basis, based on the individual facts and circumstances of such transaction.

''(2) RECYCLABLE MATERIAL DEFINED.—For purposes of this subsection, the term 'recyclable material' means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap; except that such term shall not include—

''(A) shipping containers with a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substance that form an integral part of the container) contained in or adhering thereto; or

''(B) any item of material containing polychlorinated biphenyls (PCBs) in excess of 50 parts per million (ppm) or any new standard promulgated pursuant to applicable Federal laws.

''(3) TRANSACTIONS INVOLVING SCRAP PAPER, PLASTIC, GLASS, TEXTILES, OR RUBBER.—Transactions involving scrap paper, scrap plastic, scrap glass, scrap textiles, or scrap rubber (other than whole tires) shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

''(A) The recyclable material met a commercial specification grade.

''(B) A market existed for the recyclable material.

''(C) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a new saleable product.

''(D) The recyclable material could have been a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

''(E) For transactions occurring 90 days or more after the date of enactment of this subsection, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person (hereinafter in this subsection referred to as a 'consuming facility') was in compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(F) For purposes of this paragraph, 'reasonable care' shall be determined using criteria that include (but are not limited to)—

''(i) the price paid in the recycling transaction;

''(ii) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material; and

''(iii) the result of inquiries made to the appropriate Federal, State, or local environmental agency (or agencies) regarding the consuming facility's past and current compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material. For the purposes of this subparagraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be deemed to be a substantive provision.

''(4) TRANSACTIONS INVOLVING SCRAP METAL.—

''(A) Transactions involving scrap metal shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(i) the person met the criteria set forth in paragraph (3) with respect to the scrap metal;

''(ii) the person was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Administrator promulgates under the Solid Waste Disposal Act subsequent to the enactment of this subsection and with regard to transactions occurring after the effective date of such regulations or standards; and

''(iii) the person did not melt the scrap metal prior to the transaction.

''(B) For purposes of subparagraph (A)(iii), melting of scrap metal does not include the thermal separation of 2 or more materials due to differences in their melting points (referred to as 'sweating').

''(C) For purposes of this paragraph, the term 'scrap metal' means—

''(i) bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled; and

''(ii) notwithstanding subparagraph (A)(iii), metal byproducts from copper and copper-based alloys that—

''(I) are not 1 of the primary products of a secondary production process;

''(II) are not solely or separately produced by the production process;

''(III) are not stored in a pile or surface impoundment; and

''(IV) are sold to another recycler that is not speculatively accumulating such metal byproducts;

except for scrap metals that the Administrator excludes from this definition by regulation.

''(5) TRANSACTIONS INVOLVING BATTERIES.—Transactions involving spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(A) the person met the criteria set forth in paragraph (3) with respect to the spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries, but the person did not recover the valuable components of such batteries; and

''(B)(i) with respect to transactions involving lead-acid batteries, the person was in compliance with applicable Federal environmental regulations or standards, and any amendments thereto, regarding the storage, transport, management, or other activities associated with the recycling of spent lead-acid batteries;

''(ii) with respect to transactions involving nickel-cadmium batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of spent nickel-cadmium batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto; or

''(iii) with respect to transactions involving other spent batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of such batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto.

''(6) EXCLUSIONS.—

''(A) The exemptions set forth in paragraphs (3), (4), and (5) shall not apply if—

''(i) the person had an objectively reasonable basis to believe at the time of the recycling transaction—

''(I) that the recyclable material would not be recycled;

''(II) that the recyclable material would be burned as fuel, or for energy recovery or incineration; or

''(III) for transactions occurring before 90 days after the date of the enactment of this subsection, that the consuming facility was not in compliance with a substantive (not procedural or administrative) provision of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

''(ii) the person had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling; or

''(iii) the person failed to exercise reasonable care with respect to the management and handling of the recyclable material (including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances).

''(B) For purposes of this paragraph, an objectively reasonable basis for belief shall be determined using criteria that include (but are not limited to) the size of the person's business, customary industry practices (including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances), the price paid in the recycling transaction, and the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

''(C) For purposes of this paragraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be deemed to be a substantive provision.

''(D) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection—

''(i) affects any rights, defenses, or liabilities under section 107(a) of any person with respect to any transaction involving any material other than a recyclable material subject to paragraph (1) of this subsection; or

''(ii) relieves a plaintiff of the burden of proof that the elements of liability under section 107(a) are met under the particular circumstances of any transaction for which liability is alleged.

''(v) RECYCLING TRANSACTIONS INVOLVING USED OIL.—

''(1) DEFINITION OF USED OIL.—In this subsection, the term 'used oil' has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903), except that the term—

''(A) includes any synthetic oil; and

''(B) does not include an oil that is subject to regulation under section 6(e)(10)(A) of the Toxic Substances Control Act (15 U.S.C. 2605(e)(10)(A)).

''(2) TRANSACTIONS INVOLVING USED OIL.—Transactions involving recyclable material that consists of used oil shall be considered to be arranging for recycling if the person that arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material)—

''(A) did not mix the recyclable material with a hazardous substance following the removal of the used oil from service; and

''(B) demonstrates by a preponderance of the evidence that—

''(i) at the time of the transaction, the recyclable material was sent to a facility that recycled used oil by using it as a feedstock for the manufacture of a new saleable product; or

''(ii)(I) at the time of the transaction, the recyclable material or the product to be made from the recyclable material could have been a replacement or substitute, in whole or in part, for a virgin raw material;

''(II) in the case of a transaction occurring on or after the date that is 90 days after the date of enactment of this section, the person exercised reasonable care to determine that the facility where the recyclable material would be handled, processed, reclaimed, or otherwise managed by another person was in compliance with substantive provisions of any Federal, State, or local environmental law (including a regulation promulgated or a compliance order or decree issued under the law) that is applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material; and

''(III) the person was in compliance with any regulations or standards for the management of used oil promulgated under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that were in effect on the date of the transaction.

''(3) REASONABLE CARE.—For purposes of this subsection, reasonable care shall be determined using criteria that include—

''(A) the price paid in the recycling transaction;

''(B) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material; and

''(C) the result of inquiries made to the appropriate Federal, State, or local environmental agency (or agencies) regarding the consuming facility's past and current compliance with substantive provisions of any Federal, State, or local environmental law (including a regulation promulgated or a compliance order or decree issued under the law), applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(w) LIMITATION OF LIABILITY OF RAILROAD OWNERS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a person that substantially complies with paragraph (2) with respect to a facility shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track (including a spur track over land subject to an easement), to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

''(A) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

''(B) the spur track is not more than 10 miles long; and

''(C) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.

''(2) REQUIREMENTS FOR LIMITATION OF LIABILITY.—The requirement of this paragraph is that—

''(A) to the extent that the person has operational control over a facility—

''(i) the person provides full cooperation to, assistance to, and access to the facility by, persons that are responsible for response actions at the facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility); and

''(ii) the person takes no action to impede the effectiveness or integrity of any institutional control employed under section 121 at the facility; and

''(B) the person complies with any request for information or administrative subpoena issued by the President under this Act.

''(x) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—

''(1) LIMITATION ON LIABILITY.—Subject to paragraph (2), if an organization described in section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

''(2) CONDITIONS.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

''(A) substantially comply with the requirement of subsection (y) with respect to the vessel or facility;

''(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

''(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

''(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

''(3) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(I) that meets the conditions specified in paragraph (2).''.

(2) TRANSITION RULES.—

(A) IN GENERAL.—The exemptions under subsections (q), (r), (s), (v), and (w) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(q), 9607(r), 9607(s)) (as added by paragraph (1)) shall not apply to any administrative settlement or any settlement or judgment approved by a United States Federal District Court—

(i) before the date of enactment of this Act; or

(ii) not later than 180 days after the date of enactment of this Act.

(B) EFFECT ON PENDING OR CONCLUDED ACTIONS.—The exemptions provided in subsection (u) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(u)) (as added by paragraph (1)) shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the United States prior to the date of enactment of this Act.

(c) SERVICE STATION DEALERS.—Section 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(c)) is amended—

(1) in paragraph (1)—

(A) by striking ''No person'' and inserting ''A person'';

(B) by striking ''may recover'' and inserting ''may not recover'';

(C) by striking ''if such recycled oil'' and inserting ''unless the service station dealer''; and

(D) by striking subparagraphs (A) and (B) and inserting the following:

''(A) mixed the recycled oil with any other hazardous substance; or

''(B) did not store, treat, transport, or otherwise manage the recycled oil in compliance with any applicable regulations or standards promulgated under section 3014 of the Solid Waste Disposal Act (42 U.S.C. 6935) and other applicable authorities that were in effect on the date of such activity.''; and

(2) by striking paragraph (4).

**SEC. 302. EXPEDITED SETTLEMENT FOR CERTAIN PARTIES.**

(a) PARTIES ELIGIBLE.—Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by striking the subsection heading and inserting the following:

''(g) EXPEDITED FINAL SETTLEMENT.—'';

(2) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking ''(1)'' and all that follows through subparagraph (A) and inserting the following:

''(1) PARTIES ELIGIBLE.—

''(A) IN GENERAL.—As expeditiously as practicable, the President shall—

''(i) notify each potentially responsible party that meets 1 or more of the conditions stated in subparagraphs (B), (C), and (D) of the party's eligibility for a settlement; and

''(ii) offer to reach a final administrative or judicial settlement with the party.

''(B) DE MINIMIS CONTRIBUTION.—The condition stated in this subparagraph is that the liability is for response costs based on paragraph (3) or (4) of section 107(a) and the party's contribution of a hazardous substance at a facility is de minimis. For the purposes of this subparagraph, a potentially responsible party's contribution shall be considered to be de minimis only if the President determines that both of the following criteria are met:

''(i) MINIMAL AMOUNT OF MATERIAL.—The amount of material containing a hazardous substance contributed by the potentially responsible party to the facility is minimal relative to the total amount of material containing hazardous substances at the facility. The amount of a potentially responsible party's contribution shall be presumed to be minimal if the amount is 1 percent or less of the total amount of material containing a hazardous substance at the facility, unless the Administrator promptly identifies a greater threshold based on site-specific factors.

''(ii) HAZARDOUS EFFECTS.—The material containing a hazardous substance contributed by the potentially responsible party does not present toxic or other hazardous effects that are significantly greater than the toxic or other hazardous effects of other material containing a hazardous substance at the facility.'';

(C) in subparagraph (C) (as redesignated by subparagraph (A))—

(i) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and adjusting the margins appropriately;

(ii) by striking ''(C) The potentially responsible party'' and inserting the following:

''(C) OWNERS OF REAL PROPERTY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party''; and

(iii) by striking ''This subparagraph (B)'' and inserting the following:

''(ii) APPLICABILITY.—Clause (i)''; and

(D) by adding at the end the following:

''(D) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that—

''(I) the potentially responsible party is—

''(aa) a natural person;

''(bb) a small business; or

''(cc) a municipality;

''(II) the potentially responsible party demonstrates an inability to pay or has only a limited ability to pay response costs, as determined by the Administrator under a regulation promulgated by the Administrator, after—

''(aa) public notice and opportunity for comment; and

''(bb) consultation with the Administrator of the Small Business Administration and the Secretary of Housing and Urban Development; and

''(III) in the case of a potentially responsible party that is a small business, the potentially responsible party does not qualify for the small business exemption under section 107(s) because of the application of section 107(s)(2).

''(ii) SMALL BUSINESSES.—

''(I) DEFINITION OF SMALL BUSINESS.—In this subparagraph, the term 'small business' means a business entity that—

''(aa) during the taxable year preceding the date of transmittal of notification that the business is a potentially responsible party, had full- and part-time employees whose combined time was equivalent to that of 75 or fewer full-time employees or for that taxable year reported $3,000,000 or less in gross revenue; and

''(bb) is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility.

''(II) CONSIDERATIONS.—At the request of a small business, the President shall take into consideration the ability of the small business to pay response costs and still maintain its basic business operations, including—

''(aa) consideration of the overall financial condition of the small business; and

''(bb) demonstrable constraints on the ability of the small business to raise revenues.

''(III) INFORMATION.—A small business requesting settlement under this paragraph shall promptly provide the President with all information needed to determine the ability of the small business to pay response costs.

''(IV) DETERMINATION.—A small business shall demonstrate the extent of its ability to pay response costs, and the President shall perform any analysis that the President determines may assist in demonstrating the impact of a settlement on the ability of the small business to maintain its basic operations. The President, in the discretion of the President, may perform such an analysis for any other party or request the other party to perform the analysis.

''(V) ALTERNATIVE PAYMENT METHODS.—If the President determines that a small business is unable to pay its total settlement amount immediately, the President shall consider such alternative payment methods as may be necessary or appropriate.

''(iii) MUNICIPALITIES.—

''(I) CONSIDERATIONS.—The President shall consider the inability or limited ability to pay of a municipality to the extent that the municipality provides information with respect to—

''(aa) the general obligation bond rating and information about the most recent bond issue for which the rating was prepared;

''(bb) the amount of total available funds (other than dedicated funds or State assistance payments for remediation of inactive hazardous waste sites);

''(cc) the amount of total operating revenues (other than obligated or encumbered revenues);

''(dd) the amount of total expenses;

''(ee) the amounts of total debt and debt service;

''(ff) per capita income and cost of living;

''(gg) real property values;

''(hh) unemployment information; and

''(ii) population information.

''(II) EVALUATION OF IMPACT.—A municipality may submit for consideration by the President an evaluation of the potential impact of the settlement on the provision of municipal services and the feasibility of making delayed payments or payments over time.

''(III) RISK OF DEFAULT OR VIOLATION.—A municipality may establish an inability to pay for purposes of this subparagraph by showing that payment of its liability under this Act would—

''(aa) create a substantial demonstrable risk that the municipality would default on debt obligations existing as of the time of the showing, go into bankruptcy, be forced to dissolve, or be forced to make budgetary cutbacks that would substantially reduce the level of protection of public health and safety; or

''(bb) necessitate a violation of legal requirements or limitations of general applicability concerning the assumption and maintenance of fiscal municipal obligations.

''(IV) OTHER FACTORS RELEVANT TO SETTLEMENTS WITH MUNICIPALITIES.—In determining an appropriate settlement amount with a municipality under this subparagraph, the

President may consider other relevant factors, including the fair market value of any in-kind services that the municipality may provide to support the response action at the facility.

''(iv) OTHER POTENTIALLY RESPONSIBLE PARTIES.—This subparagraph does not affect the President's authority to evaluate the ability to pay of a potentially responsible party other than a natural person, small business, or municipality or to enter into a settlement with such other party based on that party's ability to pay.

''(E) ADDITIONAL CONDITIONS FOR EXPEDITED SETTLEMENTS.—

''(i) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this paragraph, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph.''.

(b) SETTLEMENT OFFERS.—Section 122(g) of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

''(6) SETTLEMENT OFFERS.—

''(A) NOTIFICATION.—As soon as practicable after receipt of sufficient information to make a determination, the Administrator shall notify any person that the Administrator determines is eligible under paragraph (1) of the person's eligibility for the expedited final settlement.

''(B) OFFERS.—As soon as practicable after receipt of sufficient information, the Administrator shall submit a written settlement offer to each person that the Administrator determines, based on information available to the Administrator at the time at which the determination is made, to be eligible for a settlement under paragraph (1).

''(C) INFORMATION.—At the time at which the Administrator submits an offer under paragraph (1), the Administrator shall, at the request of the recipient of the offer, make available to the recipient any information available under section 552 of title 5, United States Code, on which the Administrator bases the settlement offer, and if the settlement offer is based in whole or in part on information not available under that section, so inform the recipient.''.

**SEC. 303. FAIR SHARE SETTLEMENTS AND STATUTORY ORPHAN SHARES.**

(a) IN GENERAL.—Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622) is amended by adding at the end the following:

''(n) FAIR SHARE ALLOCATION.—

''(1) PROCESS.—The President shall initiate an impartial fare share allocation, conducted by a neutral third party, at National Priorities List facilities, if—

''(A) there is more than 1 potentially responsible party that is not—

''(i) eligible for an exemption or limitation under subsection (q), (r), (s), (t), (u), (v), (w), or (x) of section 107;

''(ii) eligible for a settlement under subsection (g); or

''(iii) insolvent, bankrupt, or defunct; and

''(B) 1 or more of the potentially responsible parties agree to bear the costs of the allocation (which shall be considered to be response costs under this Act) under such conditions as the President may prescribe.

''(2) PRE-ALLOCATION SETTLEMENTS.—

''(A) IN GENERAL.—Before initiating the allocation, the President may—

''(i) provide a 90-day period of negotiation; and

''(ii) extend the period of negotiation described in clause (i) for an additional 90 days.

''(B) ALTERNATIVE DISPUTE RESOLUTION.—The President may use the services of an alternative dispute resolution neutral to assist in negotiations.

''(C) SETTLEMENT.—On expiration of a negotiation period described in subparagraph (A), the President may offer to settle the liability of 1 or more of the parties.

''(D) RESPONSE ACTION.—

''(i) IN GENERAL.—As a condition of a settlement under this subsection, the President may require 1 or more parties to conduct a response action at the facility.

''(ii) FUNDING AND COSTS.—An agreement for a required response action described in clause (i) may include mixed funding under this section, including the forgiveness of past costs.

''(3) EXPEDITED ALLOCATION.—

''(A) IN GENERAL.—At the request of any party subject to the allocation, the allocator may first accept the President's estimate of the statutory orphan share specified under subsection (o).

''(B) SETTLEMENT BASED ON STATUTORY ORPHAN SHARE.—The President may offer to settle the liability of any party based on—

''(i) the statutory orphan share as accepted by the allocator;

''(ii) the party's pro rata share of the statutory orphan; and

''(iii) other terms and conditions acceptable to the United States.

''(4) FACTORS.—In conducting an allocation under this subsection, the allocator, without regard to any theory of joint and several liability, shall estimate the fair share of each potentially responsible party using principles of equity, the best information reasonably available to the President, and the following factors:

''(A) the quantity of hazardous substances contributed by each party;

''(B) the degree of toxicity of hazardous substances contributed by each party;

''(C) the mobility of hazardous substances contributed by each party;

''(D) the degree of involvement of each party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

''(E) the degree of care exercised by each party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

''(F) the cooperation of each party in contributing to any response action and in providing complete and timely information to the United States or the allocator; and

''(G) such other equitable factors as the President considers appropriate.

''(5) SCOPE.—A fair share allocation under this subsection shall include any response costs at a National Priorities List facility that are not addressed in an administrative settlement or a settlement or a judgment approved by a United States Federal District Court.

''(6) SETTLEMENTS BASED ON ALLOCATIONS.—

''(A) IN GENERAL.—A party may settle any liability to the United States for response costs under this Act for its allocated fair share, including a reasonable risk premium that reflects uncertainties existing at the time of settlement.

''(B) COMPLETION OF OBLIGATIONS.—A person that is undertaking a response action under an administrative order issued under section 106 or has entered into a settlement decree with the United States of a State as of the date of enactment of this subsection shall complete the person's obligations under the order or settlement decree.

''(C) JOINT REJECTION.—The President and the Attorney General may jointly reject an allocation report, in writing, if—

''(i) the allocation does not provide a basis for settlement that is fair, reasonable, and consistent with the objectives of this Act; or

''(ii) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

''(D) SUBSEQUENT ALLOCATION.—

''(i) IN GENERAL.—If the Administrator and the Attorney General jointly reject an allocation report under subparagraph (C), the President shall initiate another impartial fair share allocation.

''(ii) COSTS.—The United States shall bear 50 percent of the costs of a subsequent allocation if an initial allocation is rejected under subparagraph (C)(i).

''(7) UNFUNDED AND UNATTRIBUTABLE SHARES.—Any share attributable to an insolvent, defunct, or bankrupt party, or a share that cannot be attributed to any particular party, shall be allocated among any responsible parties not described in subsection (q), (r), (s), (t), (u), (v), (w), or (x) of section 107 or subsection (g) of this section.

''(8) SAVINGS.—The President may use the authority under this section to enter into settlement agreements with respect to any response action that is the subject of an allocation at any time.

''(9) EFFECT ON PRINCIPLES OF LIABILITY.—Except as provided in paragraph (4), the authorization of an allocation process under this section shall not modify or affect the principles of liability under this title as determined by the courts of the United States.

''(o) STATUTORY ORPHAN SHARES.—

''(1) IN GENERAL.—For purposes of this section, the statutory orphan share is the difference between—

''(A) the liability of a party described in subsection (q), (s), (t), (u), (v), (w), or (x) of section 107 or subsection (g) of this section; and

''(B) the President's estimate of the liability of the party, notwithstanding any exemption from or limitation on liability in this Act, for response costs that are not addressed in an administrative settlement or a settlement or judgment approved by a United States district court.

''(2) DETERMINATION OF STATUTORY ORPHAN SHARES.—The President shall include an estimate of the statutory orphan share of a party described in section 107(t) or subsection (g) of this section, based on the best information reasonably available to the President, at any time at which the President seeks judicial approval of a settlement with the party.

''(3) TRANSITION RULE AND SUBSEQUENT SETTLEMENTS.—

''(A) IN GENERAL.—Each settlement presented for judicial approval on or after the date that is 1 year after the date of enactment of this subsection shall include an estimate of the statutory orphan share for each party described in subsections (q), (s), and (u) of section 107 that is otherwise liable at a facility for costs addressed in the settlement.

''(B) SUBSEQUENT SETTLEMENTS.—The President shall include in a subsequent settlement at the same facility a revised statutory orphan share estimate if the President—

''(i) determines that the subsequent settlement includes a new statutory orphan share; or

''(ii) has good cause to revise an earlier statutory orphan share estimate.

''(4) FINAL SETTLEMENTS.—

''(A) IN GENERAL.—An administrative settlement, or a judicially-approved consent decree or settlement, shall identify the statutory orphan share owing if the consent decree or settlement includes all funding necessary to complete remedial project construction for the last operable unit at the facility.

''(B) FUNDING AND REIMBURSEMENT.—A consent decree or settlement described in subparagraph (A) shall include funding of statutory orphan shares in accordance with this section to the extent funds are available.

''(C) FACILITIES UNDER UNILATERAL ORDER ONLY.—

''(i) IN GENERAL.—At a facility proceeding under an order under section 106(a) that includes all funding necessary to complete remedial project construction for the last operable unit at the facility, if the order has been issued to 1 or more parties, and all other potentially responsible parties not subject to the order at the facility are described in subsection (q), (r), (s), (t), (u), (v), (w), or (x) of section 107 or subsection (g) of this section or are insolvent, bankrupt, or defunct, the Administrator shall, on petition by the party performing under section 106(b), calculate the statutory orphan share for the facility.

''(ii) PAYMENT.—Payment of any statutory orphan share under this subparagraph shall be made in accordance with subsection (p)(2)(J), as if the parties had settled.

''(p) GENERAL PROVISIONS APPLICABLE TO STATUTORY ORPHAN SHARES AND FAIR SHARE SETTLEMENTS.—

''(1) IN GENERAL.—A fair share settlement under subsection (n) and a statutory orphan share under subsection (o) shall be subject to paragraph (2).

''(2) PROVISIONS APPLICABLE TO STATUTORY ORPHAN SHARES AND FAIR SHARE SETTLEMENTS.—

''(A) STAY OF LITIGATION AND ENFORCEMENT.—

''(i) IN GENERAL.—All contribution and cost recovery actions under this Act against each party described in section 107(t) and subsection (g) of this section are stayed until the Administrator offers those parties a settlement.

''(ii) SUSPENSION OF STATUTE OF LIMITATIONS.—Any statute of limitations applicable to an action described in clause (i) is suspended during the period that a stay under this subparagraph is in effect.

''(B) FAILURE OR INABILITY TO COMPLY.—If the President fails to fund a statutory orphan share, reimburse a party, or include a statutory orphan share estimate in any settlement when required to do so under this Act, the President shall not—

''(i) issue any new order under section 106 at the facility to any non-Federal party; or

''(ii) commence or maintain any new or existing action to recover response costs at the facility.

''(C) AMOUNTS OWED.—

''(i) HAZARDOUS SUBSTANCE SUPERFUND MANAGEMENT.—The President may provide partial statutory orphan share funding and partial reimbursement payments to a party on a schedule that ensures an equitable distribution of payments to all eligible parties on a timely basis.

''(ii) PRIORITY.—The priority for partial payments shall be based on the length of time that has passed since the payment obligation arose.

''(iii) PAYMENT FROM FUNDS MADE AVAILABLE FOR SUBSEQUENT FISCAL YEARS.—Any amounts payable in excess of available appropriations in any fiscal year shall be paid from amounts made available for subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

''(D) CONTRIBUTION PROTECTION.—

''(i) IN GENERAL.—A settlement under this subsection, subsection (g), or section 107(t) shall provide complete protection from all claims for contribution or cost recovery for response costs that are addressed in the settlement.

''(ii) COSTS BEYOND SCOPE OF ALLOCATION.—In the case of response costs at a facility that, as a result of a prior, administrative or judicially-approved settlement at the facility, are not within the scope of an allocation under subsection (n), a party shall retain the right to seek cost recovery or contribution from any other party in accordance with the prior settlement, except that no party may seek contribution for any response costs at the facility from—

''(I) a party described in subsection (q), (r), (s), (u), (v), (w), or (x) of section 107; or

''(II) a party that has settled its liability under section 107(t) or subsection (g) of this section.

''(E) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—A person that, after the date of enactment of this subsection, commences a civil action for contribution under this Act against a person that is not liable by operation of subsections (q), (r), (s), or (u) of section 107, or has resolved its liability to the United States under subsection (n), subsection (g), or section 107(t), shall be liable to that person for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees.

''(F) ILLEGAL ACTIVITIES.—Subsections (q), (r), (s), (t), (u), (v), (w), and (x) of section 107 and subsection (g) of this section shall not apply to—

''(i) any person whose liability for response costs under section 107(a) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility;

''(ii) a person described in section 107(o); or

''(iii) a bona fide prospective purchaser.

''(G) EXCEPTION.—

''(i) IN GENERAL.—The President may decline to reimburse or offer a settlement to a potentially responsible party under subsections (g) and (n) if the President makes a decision concerning a reimbursement or offer of a settlement under clause (ii).

''(ii) REQUIREMENTS FOR REIMBURSEMENT OR OFFER OF A SETTLEMENT.—A potentially responsible party may be denied a reimbursement or settlement under clause (i)—

''(I) to the extent that the person or entity has operational control over a vessel or facility, if—

''(aa) the person or entity fails to provide full cooperation to, assistance to, and access to the vessel or facility to persons that are responsible for response actions at the vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility); or

''(bb) the person or entity acts in such a way as to impede the effectiveness or integrity of any institutional control employed at the vessel or facility; or

''(II) if the person or entity fails to comply with any request for information or administrative subpoena issued by the President under this Act.

''(H) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this paragraph, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph.

''(I) WAIVER.—

''(i) RESPONSE COSTS IN ALLOCATION.—A party that settles its liability under this subsection waives the right to seek cost recovery or contribution under this Act for any response costs that are addressed in the allocation.

''(ii) RESPONSE COSTS OF FACILITY.—A party that settles its liability under subsection (g) or section 107(t) waives its right to seek cost recovery or contribution under this Act for any response costs at the facility.

''(J) PERFORMANCE OF RESPONSE ACTIONS.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), the President may require, as a condition of settlement under subsection (n) and section 107(t), that 1 or more parties conduct a response action at the facility.

''(ii) REIMBURSEMENT.—

''(I) IN GENERAL.—The President shall reimburse a party that settles its liability under subsection (n) or section 107(t) for response costs incurred in performing a response action that exceed the amount of a settlement approved under subsection (n) or section 107(t).

''(II) PRO RATA REIMBURSEMENT.—The President shall provide equitable pro rata reimbursement to such parties on at least an annual basis.

''(iii) RESPONSE ACTIONS.—No party described in subsections (q), (r), (s), (u), (v), (w) or (x) of section 107 or subsection (g) of this section may be required to perform a response action as a condition of settlement or ordered to conduct a response action under section 106.

''(K) JUDICIAL REVIEW.—

''(i) IN GENERAL.—A court shall not approve any settlement under this Act unless the settlement includes an estimate of the statutory orphan share that is fair, reasonable and consistent with this Act.

''(ii) STATUTORY ORPHAN SHARE SETTLEMENT.—If a court determines that an estimate of a statutory orphan share is not fair, reasonable, or consistent with this Act, the court may—

''(I) approve the settlement; and

''(II) disapprove and remand the estimate of the statutory orphan share.''.

(b) REGULATIONS.—The President shall issue regulations to implement this title not later than 180 days after the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—Section 106(b)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9706(b)(1)) is amended by adding at the end the following: 'The conduct or approval of an allocation of liability under this Act, including any settlement of liability with a party based on the allocation, shall not constitute sufficient cause for any party (including a party that settled its liability based on the allocation) to willfully violate, or fail or refuse to comply with, any order of the President under subsection (a).''.

(d) LAW ENFORCEMENT AGENCIES NOT INCLUDED AS OWNER OR OPERATOR.—Section 101(20)(D) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20(D)) is amended by inserting after ''or control'' the following: ''through seizure or otherwise in connection with law enforcement activity, or''.

(e) COMMON CARRIERS.—Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking ''a published tariff and acceptance'' and inserting ''a contract''.

**SEC. 304. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.**

Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end the following:

''(H) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.''.

## TITLE IV—REMEDY SELECTION AND NATURAL RESOURCE DAMAGES

**SEC. 401. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.**

(a) PREFERENCE FOR TREATMENT.—Section 121(b) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9621(b)) is amended by striking paragraph (1) and inserting the following:

''(1) PREFERENCE FOR TREATMENT.—

''(A) IN GENERAL.—For any discrete area containing a principal hazardous constituent of a hazardous substance, pollutant, or contaminant that, based on site specific factors, presents a substantial risk to human health or the environment because of—

''(i) the high toxicity of the principal hazardous constituent; or

''(ii) the high mobility of the principal hazardous constituent;

the remedy selection process shall include a preference for a remedial action that includes treatment that reduces the risk posed by the principal hazardous constituent over remedial actions that do not include such treatment.

''(B) FINAL CONTAINMENT.—With respect to a discrete area described in subparagraph (A), the President may select a final containment remedy at a landfill or mining site or similar facility if—

''(i)(I) the discrete area is small relative to the overall volume of waste or contamination being addressed;

''(II) the discrete area is not readily identifiable and accessible; and

''(III) without the presence of the discrete area, containment would have been selected as the appropriate remedy under this subsection for the larger body of waste or larger area of contamination in which the discrete area is located; or

''(ii) the volume and size of the discrete area is extraordinary compared to other facilities listed on the National Priorities List, and, because of the volume, size, and other characteristics of the discrete area, it is highly unlikely that any treatment technology will be developed that could be implemented at a reasonable cost.''.

(b) COMPLIANCE WITH FEDERAL AND STATE LAWS.—Section 121(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)) is amended by striking subparagraph (C) and inserting the following:

''(C) COMPLIANCE WITH FEDERAL AND STATE LAWS.—

''(i) APPLICABLE REQUIREMENTS.—

''(I) IN GENERAL.—Subject to clause (iii), a remedial action shall require, at the completion of the remedial action, a level or standard of control for each hazardous substance, pollutant, and contaminant that at least attains the substantive requirements of all promulgated standards, requirements, criteria, and limitations, under—

''(aa) each Federal environmental law, that are legally applicable to the conduct or operation of the remedial action or to the level of cleanup for hazardous substances, pollutants, or contaminants addressed by the remedial action;

''(bb) any State environmental or facility siting law, that are more stringent than any Federal standard, requirement, criterion, or limitation and are legally applicable to the conduct or operation of the remedial action or to the level of cleanup for hazardous substances, pollutants, or contaminants addressed by the remedial action, and that the State demonstrates are of general applicability, publishes and identifies to the President in a timely manner as being applicable to the remedial action, and has consistently applied to other remedial actions in the State; and

''(cc) any more stringent standard, requirement, criterion, or limitation relating to an environmental or facility siting law promulgated by the State after the date of enactment of the Superfund Amendments and Reauthorization Act of 1999 that the State demonstrates is of general applicability, publishes and identifies to the President in a timely manner as being applicable to the remedial action, and has consistently applied to other remedial actions in the State.

''(II) CONTAMINATED MEDIA.—Compliance with substantive provisions of section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) shall not be required with respect to return, replacement, or disposal of contaminated media (including residuals of contaminated media and other solid wastes generated onsite in the conduct of a remedial action) into the same media in or very near then-existing areas of contamination onsite at a facility.

''(ii) APPLICABILITY OF REQUIREMENTS TO RESPONSE ACTIONS CONDUCTED ONSITE.—No procedural or administrative requirement of any Federal, State, or local law (including any requirement for a permit) shall apply to a response action that is conducted onsite at a facility if the response action is selected and carried out in compliance with this section.

''(iii) WAIVER PROVISIONS.—

''(I) IN GENERAL.—The President may select a remedial action at a facility that meets the requirements of subparagraph (B) that does not attain a level or standard of control that is at least equivalent to an applicable requirement described in clause (i)(I) if the President makes any of the following findings:

''(aa) PART OF REMEDIAL ACTION.—The selected remedial action is only part of a total remedial action that will attain the applicable requirements of clause (i)(I) when the total remedial action is completed.

''(bb) GREATER RISK.—Attainment of the requirements of clause (i)(I) will result in greater risk to human health or the environment than alternative options.

''(cc) TECHNICAL IMPRACTICABILITY.—Attainment of the requirements of clause (i)(I) is technically impracticable.

''(dd) EQUIVALENT TO STANDARD OF PERFORMANCE.—The selected remedial action will attain a standard of performance that is equivalent to that required under clause (i)(I) through use of another method or approach.

''(ee) INCONSISTENT APPLICATION.—With respect to a State requirement made applicable under clause (i)(I), the State has not consistently applied (or demonstrated the intention to apply consistently) the requirement in similar circumstances to other remedial actions in the State.

''(ff) BALANCE.—In the case of a remedial action to be funded predominantly under section 104 using amounts from the Fund, a selection of a remedial action that attains the level or standard of control described in clause (i)(I) will not provide a balance between the need for protection of public health and welfare and the environment at the facility, and the need to make amounts from the Fund available to respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats presented by the various facilities.

''(II) PUBLICATION.—The President shall publish any findings made under subclause (I), including an explanation and appropriate documentation and an explanation of how the selected remedial action meets the requirements of this section.

''(D) NO STANDARD.—If no applicable Federal or State standard is established for a specific hazardous substance, pollutant, or contaminant, a remedial action shall attain a standard that the President determines to be protective of human health and the environment.''

**SEC. 402. USE OF RISK ASSESSMENT IN REMEDY SELECTION.**

(a) IN GENERAL.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) is amended by adding at the end the following: ''In selecting an appropriate remedial action, the President shall conduct and utilize a facility-specific risk evaluation in accordance with section 129.''.

(b) FACILITY-SPECIFIC RISK EVALUATIONS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 201(b)) is amended by adding at the end the following:

**''SEC. 129. FACILITY-SPECIFIC RISK EVALUATIONS.**

''(a) IN GENERAL.—The goal of a facility-specific risk evaluation performed under this Act is to provide informative and understandable estimates that neither minimize nor exaggerate the current or potential risk posed by a facility.

''(b) RISK EVALUATION PRINCIPLES.—

''(1) IN GENERAL.—A facility-specific risk evaluation shall—

''(A)(i) use chemical-specific and facility-specific data in preference to default assumptions whenever it is practicable to obtain such data; or

''(ii) if it is not practicable to obtain such data, use a range and distribution of realistic and scientifically supportable default assumptions;

''(B) ensure that the exposed population and all current and potential pathways and patterns of exposure are evaluated;

''(C) consider the current or reasonably anticipated future use of the land and water resources in estimating exposure; and

''(D) consider the use of institutional controls that comply with the requirements of section 121.

''(2) CRITERIA FOR USE OF SCIENCE.—Any chemical-specific and facility-specific data or default assumptions used in connection with a facility-specific risk evaluation shall be consistent with the criteria for the use of science in decisionmaking stated in subsection (e).

''(3) INSTITUTIONAL CONTROLS.—In conducting a risk assessment to determine the need for remedial action, the President may consider only institutional controls that are in place at the facility at the time at which the risk assessment is conducted.

''(c) USES.—A facility-specific risk evaluation shall be used to—

''(1) determine the need for remedial action;

''(2) evaluate the current and potential hazards, exposures, and risks at the facility;

''(3) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

''(4) evaluate the protectiveness of alternative remedial actions proposed for a facility;

''(5) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the current and reasonably anticipated future use of the land and water resources; and

''(6) establish protective concentration levels if no applicable requirement under section 121(d)(2)(c) exists or if an otherwise applicable requirement is not sufficiently protective of human health and the environment.

''(d) RISK COMMUNICATION PRINCIPLES.—In carrying out this section, the President shall ensure that the presentation of information on public health effects is comprehensive, informative, and understandable. The document reporting the results of a facility-specific risk evaluation shall specify, to the extent practicable—

''(1) each population addressed by any estimate of public health effects;

''(2) the expected risk or central estimate of risk for the specific populations;

''(3) each appropriate upper-bound or lower-bound estimate of risk;

''(4) each significant uncertainty identified in the process of the assessment of public health effects and research that would assist in resolving the uncertainty; and

''(5) peer-reviewed studies known to the President that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

''(e) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, the President shall use—

''(1) the best available peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

''(2) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

''(f) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the President shall issue a final regulation implementing this section.''.

**SEC. 403. NATURAL RESOURCE DAMAGES.**

Section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (42 U.S.C. 9607(f)(1)), is amended by striking the fifth sentence (beginning ''The measure of damages'') and inserting the following: ''The measure of damages in any action under subsection (a)(4)(C) may include only the reasonable costs of: (i) restoring, replacing or acquiring the equivalent (referred to collectively as ''restoration″) of an injured, destroyed or lost natural resource to reinstate the human uses and environmental functions of the natural resource; (ii) providing a substantially equivalent resource during the period of any interim lost use of the injured, destroyed or lost resource to the extent that a substitute resource providing the uses is not otherwise reasonably available; and (iii) assessing the damages. Where a unique resource has been destroyed, lost, or cannot be restored, the measure of damages may include the reasonable costs of expediting or enhancing the restoration of appropriate substitute resources. For purposes of this paragraph, reasonable costs of alternative restoration measures shall be determined based on the following factors: technical feasibility; cost effectiveness; the period of time required for restoration; and whether a response action or natural recovery will reinstate the uses provided by a natural resource within a reasonable period of time.''.

**SEC. 404. DOUBLE RECOVERY.**

Section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1))) is amended by striking the sixth sentence (beginning ''There shall be no'') and inserting the following: ''A person shall not be liable for damages under this paragraph for an injury to, destruction of, or loss of a natural resource, or a loss of the uses provided by the natural resource, that have been recovered under this Act or any other Federal, State or Tribal law for the same injury to, destruction of, or loss of the natural resource or loss of the uses provided by the natural resource.''.

## TITLE V—FUNDING

**SEC. 501. USES OF HAZARDOUS SUBSTANCE SUPERFUND.**

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking sections 111 and 112 (9611, 9612) and inserting the following:

**''SEC. 111. USES OF HAZARDOUS SUBSTANCE SUPERFUND.**

''(a) IN GENERAL.—

''(1) SPECIFIC USES.—The President shall use amounts appropriated out of the Hazardous Substance Superfund only—

''(A) for the performance of response actions;

''(B) to enter into mixed funding agreements in accordance with section 122; and

''(C) to reimburse a party for response costs incurred in excess of the allocated share of the party as described in a final settlement under section 122.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Hazardous Substances Superfund for the purposes specified in paragraph (1), not more than the following amounts:

''(A) For fiscal year 2000, $1,165,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1).

''(B) For fiscal year 2001, $1,165,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1).

''(C) For fiscal year 2002, $1,120,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1).

''(D) For fiscal year 2003, $1,075,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1). and

''(E) For fiscal year 2004, $1,025,000,000, of which not more than $200,000,000 shall be used for the purposes set forth in subparagraphs (B) and (C) of paragraph (1).

''(b) CLAIMS AGAINST HAZARDOUS SUBSTANCE SUPERFUND.—Claims against the Hazardous Substance Superfund shall not be valid or paid in excess of the total amount in the Hazardous Substance Superfund at any 1 time.

''(c) REGULATIONS.—

''(1) OBLIGATION OF FUNDS.—The President may promulgate regulations designating 1 or more Federal officials that may obligate amounts in the Hazardous Substance Superfund in accordance with this section.

''(2) NOTICE TO POTENTIAL INJURED PARTIES.—

''(A) IN GENERAL.—The President shall promulgate regulations with respect to the notice that shall be provided to potential injured parties by an owner and operator of any vessel or facility from which a hazardous substance has been released.

''(B) SUBSTANCE.—The regulations under subparagraph (A) shall describe the notice that would be appropriate to carry out this title.

''(C) COMPLIANCE.—

''(i) IN GENERAL.—On promulgation of regulations under subparagraph (A), an owner and operator described in that subparagraph shall provide notice in accordance with the regulations.

''(ii) PRE-PROMULGATION RELEASES.—In the case of a release of a hazardous substance that occurs before regulations under subparagraph (A) are promulgated, an owner and operator described in that subparagraph shall provide reasonable notice of any release to potential injured parties by publication in local newspapers serving the affected area.

''(iii) RELEASES FROM PUBLIC VESSELS.—The President shall provide such notification as is appropriate to potential injured parties with respect to releases from public vessels.

''(d) NATURAL RESOURCES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), funds may not be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resource until a plan for the use of the funds for those purposes has been developed and adopted, after adequate public notice and opportunity for hearing and consideration of all public comment, by—

''(A) affected Federal agencies;

''(B) the Governor of each State that sustained damage to natural resources that are within the borders of, belong to, are managed by, or appertain to the State; and

''(C) the governing body of any Indian tribe that sustained damage to natural resources that—

''(i) are within the borders of, belong to, are managed by, appertain to, or are held in trust for the benefit of the tribe; or

''(ii) belong to a member of the tribe, if those resources are subject to a trust restriction on alienation.

''(2) EMERGENCY ACTION EXEMPTION.—Funds may be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resource only in circumstances requiring action to—

''(A) avoid an irreversible loss of a natural resource;

''(B) prevent or reduce any continuing danger to a natural resource; or

''(C) prevent the loss of a natural resource in an emergency situation similar to those described in subparagraphs (A) and (B).

''(e) POST-CLOSURE LIABILITY FUND.—The President shall use the amounts in the Post-closure Liability Fund for—

''(1) any of the purposes specified in subsection (a) with respect to a hazardous waste disposal facility for which liability has been transferred to the Post-closure Liability Fund under section 107(k); and

''(2) payment of any claim or appropriate request for costs of a response, damages, or other compensation for injury or loss resulting from a release of a hazardous substance from a facility described in paragraph (1) under—

''(A) section 107; or

''(B) any other Federal or State law.

''(f) INSPECTOR GENERAL.—

''(1) AUDIT.—In each fiscal year, the Inspector General of the Environmental Protection Agency shall conduct an annual audit of—

''(A) all agreements and reimbursements under subsection (a); and

''(B) all other activities of the Environmental Protection Agency under this Act.

''(2) REPORT.—The Inspector General of the Environmental Protection Agency shall submit to Congress an annual report that—

''(A) describes the results of the audit under paragraph (1); and

''(B) contains such recommendations as the Inspector General considers to be appropriate.

''(g) FOREIGN CLAIMS.—To the extent that this Act permits, a foreign claimant may assert a claim to the same extent that a United States claimant may assert a claim if—

''(1) the release of a hazardous substance occurred—

''(A) in the navigable waters of a foreign country of which the claimant is a resident; or

''(B) in or on the territorial sea or adjacent shoreline of a foreign country described in subparagraph (A);

''(2) the claimant is not otherwise compensated for the loss of the claimant;

''(3) the hazardous substance was released from a facility or vessel located adjacent to or within the navigable waters under the jurisdiction of, or was discharged in connection with activities conducted under—

''(A) section 20(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(a)(2)); or

''(B) the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); and

''(4)(A) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country; or

''(B) the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that the foreign country provides a comparable remedy for United States claimants.

''(h) AUTHORIZATION OF APPROPRIATIONS OUT OF THE GENERAL FUND.—

''(1) HEALTH ASSESSMENTS AND HEALTH CONSULTATIONS.—There are authorized to be appropriated to the Agency for Toxic Substances and Disease Registry to conduct health assessments and health consultations under this Act, and for epidemiologic and laboratory studies, preparation of toxicologic profiles, development and maintenance of a registry of persons exposed to hazardous substances to allow long-term health effects studies, and diagnostic services not otherwise available to determine whether persons in populations exposed to hazardous substances in connection with a release or suspected release are suffering from long-latency diseases:

''(A) For fiscal year 2000, $60,000,000.

''(B) For fiscal year 2001, $55,000,000.

''(C) For fiscal year 2002, $55,000,000.

''(D) For fiscal year 2003, $50,000,000.

''(E) For fiscal year 2004, $50,000,000.

''(2) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

''(A) IN GENERAL.—There are authorized to be appropriated not more than the following amounts for the purposes of section 311(a):

''(i) For fiscal year 2000, $40,000,000.

''(ii) For fiscal year 2001, $40,000,000.

''(iii) For fiscal year 2002, $40,000,000.

''(iv) For each of fiscal years 2003 and 2004, $40,000,000.

''(B) TRAINING LIMITATION.—Not more than 15 percent of the amounts appropriated under subparagraph (A) shall be used for training under section 311(a) for any fiscal year.

''(C) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—Not more than $5,000,000 of the amounts available in the Hazardous Substance Superfund may be used in any of fiscal years 2000 through 2004 for the purposes of section 311(d).

''(3) BROWNFIELD GRANT PROGRAMS.—There are authorized to be appropriated to carry out section 127 $100,000,000 for each of fiscal years 2000 through 2004.

''(4) QUALIFYING STATE RESPONSE PROGRAMS.—There are authorized to be appropriated to maintain, establish, and administer qualifying State response programs during the first 5 full fiscal years following the date of enactment of this paragraph under a formula established by the Administrator, $100,000,000 for each of fiscal years 2000 through 2004.

''(5) DEPARTMENT OF JUSTICE.—There is authorized to be appropriated to the Attorney General, for enforcement of this Act, $30,000,000 for each of fiscal years 2000 through 2004.

''(6) PROHIBITION OF TRANSFER.—None of the funds authorized to be appropriated under this subsection may be transferred to any other Federal agency.''.

(b) CONFORMING AMENDMENTS.—

(1) RESPONSE ACTIONS.—Section 104(c) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(A) in paragraph (1), by striking ''obligations from the Fund, other than those authorized by subsection (b) of this section,'' and inserting '', such response actions''; and

(B) in paragraph (7), by striking ''shall be from funds received by the Fund from amounts recovered on behalf of such fund under this Act'' and inserting ''shall be from appropriations out of the general fund of the Treasury''.

(2) INFORMATION GATHERING AND ANALYSIS.—Section 105(g)(4) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9605(g)(4)) is amended by striking ''expenditure of monies from the Fund for''.

(3) PRESIDENT.—Section 107(c)(3) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9607(c)(3)) is amended in the first sentence by striking ''Fund'' and inserting ''President''.

(4) OTHER LIABILITY.—Section 109(d) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9609(d)) is amended by striking the second sentence.

(5) SOURCE OF FUNDING.—Section 119(c)(3) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(3)) is amended—

(A) in the second sentence, by striking ''For purposes of section 111, amounts'' and inserting ''Amounts''; and

(B) in the third sentence—

(i) by striking ''If sufficient funds are unavailable in the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954 to make payments pursuant to such indemnification or if the Fund is repealed, there'' and inserting ''There''; and

(ii) by striking ''payments'' and inserting ''expenditures''.

(6) REMEDIAL ACTION USING HAZARDOUS SUBSTANCE SUPERFUND.—Section 121(d)(4)(F) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(4)(F)) is amended—

(A) by striking '' using the Fund''; and

(B) by striking ''amounts from the Fund'' and inserting ''funds''.

(7) AVAILABILITY OF FUNDING.—Section 122(f)(4)(F) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9622(f)(4)(F)) is amended by striking ''the Fund or other sources of''.

Mr. SMITH of New Hampshire. Mr. President, I am pleased to join the distinguished chairman of the Committee on Environment and Public Works in introducing the Superfund Amendments and Reauthorization Act of 1999 (SARA). This bill is the result of several months of negotiations in the Committee, and reflects input we received from Senators on both sides of the aisle, state and local officials, the Administration, environmental groups, and the regulated community.

My colleagues who are familiar with our original bill, S. 1090, will notice several changes made in this new legislation.

Perhaps most significantly, we have added new titles on remedy selection and natural resource damages. These new provisions are similar to those contained in S. 8, the Superfund Cleanup Acceleration Act in the 105th Congress. Some may remember that the Environment and Public Works Committee reported S. 8 in May of 1998, but we never were able to debate the bill on the Senate floor.

Our remedy selection provisions are fairly straightforward. We would codify EPA's policy on the preference for treatment of principal threats, with an exception for sites, such as mining sites, at which such a preference would be inappropriate. We require remedies to achieve a degree of cleanup that complies with applicable Federal and State standards. We also set forth requirements for site specific risk assessments.

On natural resource damages (NRD), we deal with the major issues that have been debated over the last 10 years or more. SARA's NRD provisions:

Provide a clear definition of the objective of restoration; require costs assessed against responsible parties to be reasonable, based on the restoration measure's technical feasibility, cost effectiveness, timeliness, and consideration of natural recovery as a restoration alternative; prohibit recoveries for so-called ''nonuser'' damages and appropriately limit lost use damages; provide for the expedited or enhanced restoration of substitute resources where a unique resource that cannot be replaced has been destroyed, lost or damaged; provide responsible parties with the right to de novo review—or a full trial on all aspects of the claims against them; and, preclude double recovery against responsible parties.

In addition to these new titles, we have also made several changes to S. 1090 as introduced.

First, we have increased authorized funding levels in the first two years of the five-year period covered by the bill and made the ramp-down in funding less severe in the final three years.

Second, we deleted the cap on new NPL listings and revised the requirement for removing clean contiguous property parcels from NPL listings.

Third, we made extensive changes to the allocation system to provide additional flexibility. We added authorization for early settlements without an allocation, as well as an expedited allocation based only on an estimate of the orphan share.

Fourth, we expressly preserve strict, joint and several liability for those parties who choose not to participate in a settlement. We also ensure that EPA's existing authority to issue orders and engage in removal actions is not unduly limited.

Mr. President, these modifications have, in my view, improved the bill substantially. We are introducing this new bill for the information of our colleagues, and in an effort to generate more support for this legislation.

Unfortunately, these revisions to our Superfund bill were not sufficient to garner support from a majority of the Members on the Committee. That is disappointing to me, and I would urge my colleagues to take a good look at the bill we introduce today. It represents strong reform of the troubled Superfund program. It will accelerate cleanup by injecting greater fairness into the system, providing more resources for state and local cleanup efforts, and providing finality for decisions made under those state programs.

Our legislation continues to make major reforms in six areas. Specifically, SARA:

Directs EPA to finish the job that was started nearly two decades ago by completing the evaluation of the 3,000 remaining sites on the CERLA Information System (CERCLIS).

Clearly allocates responsibility between states and EPA for future cleanups.

Protects municipalities, small businesses, recyclers, and other parties from unfair liability—while making the system fairer for everyone else.

Provides states $100 million per year and full authority for their own cleanup programs.

Revitalizes communities with $100 million in annual brownfields redevelopment grants.

Requires fiscal responsibility by EPA and saves taxpayers money.

Our legislation will result in more hazardous waste sites being cleaned up—and in fewer dollars being wasted on litigation. It will give much-needed and much-deserved liability relief to innocent landowners, contiguous property owners, prospective purchasers, municipalities, small businesses, and recyclers. Unlike EPA's administrative reforms, this bill does not shift costs from politically popular parties to those left holding the bag. Instead, it requires payment of a statutory orphan share and authorizes the use of the Superfund Trust Fund for those shares.

For those left trapped in the Superfund liability scheme, SARA requires an allocation process to determine a party's fair share in an expedited settlement—instead of fighting it out for years in court.

In addition to increasing fairness, SARA provides much needed guidance and direction to a sometimes wayward EPA. It recognizes and builds upon the growth and strength of State hazardous waste cleanup programs. It provides new resources to States and localities for their cleanup and redevelopment efforts. As many of my colleagues know, the fear of Superfund liability has resulted in an estimated 450,000 abandoned or underutilized properties, or ''Brownfields,'' that lay fallow because private developers and municipalities don't want to be dragged into Superfund's litigation quagmire. With new resources and appropriate liability protections, our bill will allow the cleanup of those sites, spurring economic redevelopment in cities, towns, and rural areas across America.

We take a different approach to the brownfields redevelopment issue than the Administration seeks. Along with many of my colleagues, I believe that economic redevelopment is primarily a State and local issue. Our approach provides the resources and freedom States need to make progress on this front, rather than giving EPA new authority to get into the commercial real estate and redevelopment business. That is not EPA's role, nor should it be.

Where EPA does have a role is in identifying and addressing risks at uncontrolled hazardous waste sites. Our legislation ensures that EPA regains its focus on that mission.

Earlier this year, the General Accounting Office (GAO) reported that ''completion of construction at existing sites'' and reducing new entries into the program was the Environmental Protection Agency's top Superfund priority. Unfortunately, EPA's narrow focus on generating construction completion statistics appear to have divested resources from EPA's fundamental mission—protecting human health and the environment from releases of hazardous waste.

GAO reported last year that 3,000 sites still await a National Priorities List decision by EPA. Most of those sites have been in the CERCLIS inventory for more than a decade. According to the report, however, more than 1,200 of them are actually ineligible for listing on the NPL, for a variety of reasons. Some of the sites were classified erroneously, while others either do not require cleanup, have already been cleaned up, or have final cleanup underway. EPA's failure to remove the specter of an NPL listing at these sites has likely caused significant economic and social harm to the surrounding communities. EPA needs to focus on that task.

In addition, far too many of the sites that are still potentially eligible for listing have received little or no attention from EPA. EPA admitted taking no cleanup action at all at 336 sites and provided no information for another 48 sites. The only action taken at 719 sites was an initial site assessment. EPA's inattention may be due to the fact that EPA and state officials together identified only 232 of the sites as worthy of being added to NPL. In that case, however, the appropriate response is to archive the sites while ensuring that any necessary cleanup occurs under some other Federal or State program. EPA needs to focus on that task as well.

Unfortunately, there is also disagreement between EPA and state officials about even those 232 sites. EPA identified 132 that may be listed on the NPL in the future, but state officials agreed on only 26 of those. Conversely, state officials identified a different group of 100 sites as worthy of an NPL listing in the future.

EPA agreed with GAO's recommendation that it ''develop a joint strategy'' with the States for addressing these sites. After nearly 20 years and $20 billion in taxpayer funded EPA appropriations, it is disturbing that the agency only now is developing such strategy. Nonetheless, Congress has an obligation to provide direction and assistance to EPA in this effort. The Superfund Amendments and Reauthorization Act provides that direction by:

Requiring EPA to finish evaluating and/or archiving old sites stuck in the CERCLIS inventory, thus correcting the current imbalance between evaluating uncontrolled sites and amassing construction completed statistics.

Providing EPA with a schedule of 30 NPL listings per year, to ensure that it and the States appropriately allocate sites for cleanup under Superfund, RCRA, or State response programs.

Increasing current law limits on EPA removal actions to provide greater flexibility in responding to sites that, at least initially, should be the responsibility of the Federal government, but ultimately do not require an NPL listing.

These provisions will ensure that the limited universe of sites remaining in the Superfund pipeline are dealt with quickly and safely.

In addition to keeping EPA focused on the task at hand, our bill provides increased resources and authority to the States, in recognition of the progress made by State cleanup programs in the last decade.

Superfund is notable among the major Federal environmental statutes not only for its abysmal track record, but also for its heavy reliance on EPA action rather that state implementation. In other environmental programs—RCRA, the Clean Water Act, the Safe Drinking Water Act—EPA typically sets general program direction and provides technical support while leaving implementation and enforcement to the states. In the Superfund program, however, EPA takes a direct role in both enforcement and cleanup. This leadership role was originally justified by a perceived inability or alleged unwillingness on the part of states to perform or oversee cleanups. The situation today is far different.

The Environmental Law Institute reported last year that States have now completed 41,000 cleanups, with another 13,700 in progress. The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) reports that ''States are not only addressing more sites at any given time, but are also completing more sites through streamlined State programs. State programs have matured and increased in their infrastructure capacity.''

Most now recognize that states have made great strides in their programs,

and even EPA in May of 1998 released a ''Plan to Enhance the Role of States and Tribes in the Superfund Program.'' Not surprisingly, while that plan appears to provide some increased opportunities for state leadership, it also envisions a significant, on-going role for EPA.

The Superfund Amendments and Reauthorization Act, on the other hand, assists, recognizes, and builds on the growth of state cleanup programs. SARA also responds to pleas from ASTSWMO, the National Governors Association, and others to remove the ever-present threat of EPA over-filing and third party lawsuits under Superfund when a site is being cleaned up under a State program. SARA recognizes the fact that States should be the leaders in cleaning up hazardous waste sites by:

Providing $100 million annually for State core and voluntary response programs to allow States to build on their impressive record of accomplishment in this area.

Providing finality, except in cases of emergency or at a State's request, for cleanups conducted under State law.

Requiring EPA to work with the States so that sites listed on the NPL are those the Governor of the State agrees warrant an NPL listing.

Mr. President, the legislation we introduce today has the strong support of the nation's small businesses, Governors, Mayors, and state cleanup officials. I urge my colleagues to support it as well.

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By Mr. LEAHY (for himself, Mr. JEFFORDS, Mrs. HUTCHISON, Mr. FEINGOLD, and Mr. MOYNIHAN):

S. 1538. A bill to amend the Communications Act of 1934 to clarify State and local authority to regulate the placement, construction,and modification of broadcast transmission and telecommunications facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS TOWERS LEGISLATION

Mr. LEAHY. Mr. President, it is going on two years since I first submitted comments to the Federal Communications Commission regarding their proposed rules to preempt State and local governments in the placement and construction of telecommunications towers. Close to two years later, I am still working to ensure that the voice of States and local governments are heard in the continuing fight over telecommunications tower construction.

I am proud to be joined by Senators JEFFORDS, HUTCHISON, FEINGOLD, and MOYNIHAN in introducing legislation which will mandate that states and towns cannot be ignored in the spread of telecommunications towers. This bill recognizes that states and towns do have choices in this cellular age.

I became greatly alarmed two years ago, when the Federal Communications Commission proposed rules which would preempt State and local governments in the siting of telecommunications towers. This rule is still pending, and it has been by no means the only or final attempts to minimize the role of State and local governments in the clamor to erect telecommunications towers.

For instance, some may recall the '''E–911'' bill that was introduced last Congress which would have prohibited State and local governments from having any say over the placement or construction of telecommunications towers on federal lands. Keep in mind that federal courthouses and post offices are included in this category.

I continue to be very concerned that the rights of citizens are being jeopardized by the interests of telecommunications companies.

As I have said before, I do not want Vermont turned into a pincushion, with 200 foot towers indiscriminately sprouting up on every mountain and in every valley.

The state of Vermont must have a role in deciding where telecommunications towers are going to go. Vermont citizens and communities should be able to participate in the important decisions affecting their families and their future.

Twenty-nine years ago, Vermont enacted landmark legislation, known as Act 250, to carefully establish procedures to balance the interests of development with the interests of the environment, health and safety, resource conservation and the protection of Vermont's natural beauty. I do not want Act 250's legacy to be undermined by the interests of telecommunications companies.

Another factor that should remain at the forefront of this debate is the existence of alternative communication technologies.

For instance, some companies are working to offer phone service throughout the United States that is based on low-earth-orbit satellites. Over time, this will provide a satellite communications link from any place in the world, even where no tower-based system is available. Emergency communications—911 and disaster assistance—will be greatly aided with this development.

In addition, I have previously discussed how the towerless PCS-Over-Cable and PCS-Over-Fiber technology provides digital cellular phone service by using small antennas rather than large towers. These small antennas can be quickly attached to existing telephone poles, lamp posts or buildings and can provide quality wireless phone service without the use of towers. This technology is cheaper than most tower technology in part because the PCS-Over-Cable wireless provider does not have to purchase land to erect large towers.

Since there are viable and reasonable alternatives to providing wireless phone service through the use of towers, I think that towns should have some say in this matter. And I think that mayors, town officials and local citizens will agree with me.

Also, consider this: the Federal Aviation Administration presently has limited authority to regulated the siting of towers, and because of this, airport officials work with local governments in the siting of towers. Silencing local governments will have a direct effect on airline safety, according to the representatives of the airline industry that we have heard from.

In fact, in a comment letter responding to the FCC's 1997 proposed rule at preemption, the National Association of State Aviation Officials stated that preemption ''is contrary to the most fundamental principles of aviation safety * * * the proposed rule could result in the creation of hazards to aircraft and passengers at airports across the United States, as well as jeopardize safety on the ground.'' I cannot think of anyone who would want towers constructed irrespective of the negative and potentially dangerous impacts they may have on airplane flight and landing patterns.

There is also a growing concern about potential health hazards associated with using cellular telephones. Though there was a major push by the U.S. federal government to research effects of electric and magnetic fields on biological systems, as is evidenced by the five-year Electric and Magnetic Fields Research and Public Information Dissemination Program, there has been no similar effort to research potential health effects of radio frequency emissions associated with wireless communications and wireless broadcast facilities. This omission should no longer be overlooked.

As I have said before, I am for progress, but not for ill-considered, so-called progress at the expense of Vermont families, towns and homeowners. Vermont can protect its rural and natural beauty while still providing for the amazing opportunities offered by these technological advances.

I am proud to continue in my commitment to the preservation of State and local authority over the siting and construction of telecommunications towers. I ask unanimous consent that this legislation be printed the RECORD.

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

S. 1538

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) The placement of Telecommunications Facilities near residential properties can greatly reduce the value of such properties, destroy the views from such properties, and reduce substantially the desire to live in the area.

(2) States and local governments should be able to exercise control over the placement, construction, and modification of such facilities through the use of zoning, planned

growth, and other land use regulations relating to the protection of the environment and public health, safety and welfare of the community.

(3) There are alternatives to the construction of facilities to meet telecommunications and broadcast needs, including, but not limited to, alternative locations, colocation of antennas on existing towers or structures, towerless PCS-Over-Cable or PCS-Over-Fiber telephone service, satellite television systems, low-Earth orbit satellite communication networks, and other alternative technologies.

(4) There are alternative methods of designing towers to meet telecommunications and broadcast needs, including the use of small towers that do not require blinking aircraft safety lights, break skylines, or protrude above tree canopies and that are camouflaged or disguised to blend with their surroundings, or both.

(5) On August 19, 1997, the Federal Communications Commission issued a proposed rule, MM Docket No. 97–182, which would preempt the application of State and local zoning and land use ordinances regarding the placement, construction and modification of broadcast transmission facilities. It is in the interest of the Nation that the Commission not adopt this rule.

(6) It is in the interest of the Nation that the memoranda opinions and orders and proposed rules of the Commission with respect to application of certain ordinances to the placement of such towers (WT Docket No. 97–192, ET Docket No. 93–62, RM–8577, and FCC 97–303, 62 F.R. 47960) be modified in order to permit State and local governments to exercise their zoning and land use authorities, and their power to protect public health and safety, to regulate the placement of telecommunications or broadcast facilities and to place the burden of proof in civil actions, and in actions before the Commission and State and local authorities relating to the placement, construction, and modification of such facilities, on the person or entity that seeks to place, construct, or modify such facilities.

(7) PCS-Over-Cable, PCS-Over-Fiber, and satellite telecommunications systems, including low-Earth orbit satellites, offer a significant opportunity to provide so-called ''911'' emergency telephone service throughout much of the United States.

(8) According to the Comptroller General, the Commission does not consider itself a health agency and turns to health and radiation experts outside the Commission for guidance on the issue of health and safety effects of radio frequency exposure.

(9) The Federal Aviation Administration does not have adequate authority to regulate the placement, construction and modification of telecommunications facilities near airports or high-volume air traffic areas such as corridors of airspace or commonly used flyways. The Commission's proposed rules to preempt State and local zoning and land-use regulations for the siting of such facilities will have a serious negative impact on aviation safety, airport capacity and investment, and the efficient use of navigable airspace.

(10) The telecommunications industry and its experts should be expected to have access to the best and most recent technical information and should therefore be held to the highest standards in terms of their representations, assertions, and promises to governmental authorities.

(11) There has been a substantial effort by the Federal Government to determine the effects of electric and magnetic fields on biological systems, as is evidenced by the Electric and Magnetic Fields Research and Public Information Dissemination (RAPID) Program, which was established by section 2118 of the Energy Policy Act of 1992 (Public Law 102–486; 42 U.S.C. 13478). This five-year program, which was coordinated by the National Institute of Environmental Health Sciences and the Department of Energy, examined the possible effects of electric and magnetic fields on human health. Despite the success of this program, there has been no similar effort by the Federal Government to determine the possible effects on human health of radio frequency emissions associated with telecommunications facilities. The RAPID program could serve as the excellent model for a Federally-sponsored research project.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To repeal certain limitations on State and local authority regarding the placement, construction, and modification of personal wireless service facilities and related facilities as such limitations arise under section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)).

(2) To permit State and local governments—

(A) in cases where the placement, construction, or modification of telecommunications facilities and other facilities is inconsistent with State and local regulations, laws or decisions, to require the use of alternative telecommunication or broadcast technologies when such alternative technologies are available;

(B) to regulate the placement, modification and construction of such facilities so that their placement, construction and or modification will not interfere with the safe and efficient use of public airspace or otherwise compromise or endanger public safety; and

(C) to hold applicants for permits for the placement, construction, or modification of such telecommunication facilities, and providers of services using such towers and facilities, accountable for the truthfulness and accuracy of representations and statements placed in the record of hearings for such permits, licenses or approvals.

**SEC. 2. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF TELECOMMUNICATIONS FACILITIES.**

(a) REPEAL OF LIMITATIONS ON REGULATION OF PERSONAL WIRELESS FACILITIES.—Section 332(c)(7)(B) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(B)) is amended—

(1) in clause (i), by striking ''thereof—'' and all that follows through the end and inserting ''thereof shall not unreasonably discriminate among providers of functionally equivalent services.'';

(2) by striking clause (iv);

(3) by redesignating clause (v) as clause (iv); and

(4) in clause (iv), as so redesignated—

(A) in the first sentence, by striking ''30 days after such action or failure to act'' and inserting ''30 days after exhaustion of any administrative remedies with respect to such action or failure to act''; and

(B) by striking the third sentence and inserting the following: ''In any such action in which a person seeking to place, construct, or modify a telecommunications facility is a party, such person shall bear the burden of proof, regardless of who commences the action.''

(b) PROHIBITION ON ADOPTION OF RULE REGARDING PREEMPTION OF STATE AND LOCAL AUTHORITY OVER BROADCAST TRANSMISSION FACILITIES.—Notwithstanding any other provision of law, the Federal Communications Commission may not adopt as a final rule or otherwise the proposed rule set forth in ''Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities'', MM Docket No. 97–182, released August 19, 1997.

(c) AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF OTHER TRANSMISSION FACILITIES.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following:

**''SEC. 337. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF TELECOMMUNICATIONS FACILITIES.**

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, no provision of this Act may be interpreted to authorize any person or entity to place, construct, or modify telecommunications facilities in a manner that is inconsistent with State or local law, or contrary to an official decision of the appropriate State or local government entity having authority to approve, permit, license, modify, or deny an application to place, construct, or modify a tower, if alternate technology is capable of delivering the broadcast or telecommunications signals without the use of a tower.

''(b) AUTHORITY REGARDING PRODUCTION OF SAFETY AND INTERFERENCE STUDIES.—No provision of this Act may be interpreted to prohibit a State or local government from—

''(1) requiring a person or entity seeking authority to place, construct or modify telecommunications facilities or broadcast transmission facilities within the jurisdiction of such government to produce—

''(A) environmental studies, engineering reports, or other documentation of the compliance of such facilities with radio frequency exposure limits established by the Commission and compliance with applicable laws and regulations governing the effects of the proposed facility or the health, safety and welfare of the local residents in the community; and

''(B) documentation of the compliance of such facilities with applicable Federal, State, and local aviation safety standards or aviation obstruction standards regarding objects effecting navigable airspace; or

''(2) refusing to grant authority to such person to locate such facilities within the jurisdiction of such government if such person fails to produce any studies, reports, or documentation required under paragraph (1).

''(c) CONSTRUCTION.—Nothing in this section may be construed to prohibit or otherwise limit the authority of a State or local government to ensure compliance with or otherwise enforce any statements, assertions, or representations filed or submitted by or on behalf of an applicant with the State or local government for authority to place, construct or modify telecommunications facilities or broadcast transmission facilities within the jurisdiction of the State or local government.''.

**SEC. 3. ASSESSMENT OF RESEARCH ON EFFECTS OF RADIO FREQUENCY EMISSIONS ON HUMAN HEALTH.**

(a) ASSESSMENT.—The Secretary of Health and Human Services shall carry out an independent assessment on the effects of radio frequency emission on human health. The Secretary shall carry out the independent assessment through grants to appropriate public and private entities selected by the Secretary for purposes of the independent assessment.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for the Secretary of Health and Human Services for fiscal year 2000, $10,000,000 for purposes of grants for the independent assessment required by subsection (a). Amounts appropriated pursuant to the authorization of appropriation in the preceding sentence shall remain available until expended.

(c) The Secretary of Health and Human Services shall produce a report on existing research evaluating the biological effects to human health of short term, high-level, as well as long-term, low-level exposures to radio frequency emissions to Congress no later than January 1, 2001.

Mr. FEINGOLD. Mr. President, I am pleased to stand together today with my distinguished colleague, Senator LEAHY, the ranking member of the Judiciary Committee, on a bill that protects the rights of state and local governments.

Mr. President, the bill that Senator LEAHY introduced today addresses an egregious affront to state and local authority. Indeed, the Federal Communications Commission's proposed rule on telecommunications tower siting is an explicit transfer of power to the federal government.

Mr. President, the FCC would have the American people believe that it understands state and local land use issues better than the folks back home. It's proposed rule, itself promoted by a special interest group, would preempt state and local zoning and land use restrictions on the siting and construction of telecommunications towers. This is not the way the Federal government should be operating.

The FCC's proposed rule would set specific time limits within state and local governments must act in response to requests for approval of the placement, construction or modification of these towers. In addition, the rule would ''remove from local consideration certain types of restrictions on the siting and construction of transmission facilities.'' And finally, the rule would preempt all state and local laws that impair the ability of licensed broadcasters to construct or modify towers unless the state or local government can prove that their regulation is ''reasonable in relation to a clearly defined and expressly stated health or safety objective.

Mr. President, the proposal infringes on the rights of states and localities to make important zoning decisions in accordance with their own development objectives. It infringes also on the rights of residents of states and localities to fully enjoy the protection of rules requiring notification of adjacent land owners, hearing requirements and appeal periods. Under the proposed rule, the Federal government would impose specific time periods during which zoning disputes between entities seeking to build or modify towers and the state or locality must be resolved.

The rule also appears to preempt entirely a local or state law regarding tower placement even if that law is intended to ensure the health or safety of the community. The rule would allow health and safety concerns to be overridden by the federal interest in the construction of transmission facilities and in the promotion of fair and effective competition among electronic media. It is unclear why the business operations of telecommunications companies should override local health and safety concerns.

State or local zoning or land use laws designed to address historic or aesthetic objectives also would be preempted under this rule.

Mr. President, states and localities should be able to maintain the right to control development within their own jurisdictions without undue interference from the Federal government. Federal preemption of zoning decisions should be the exception rather than the rule. The proposed rule would make federal preemption of legitimate local and state zoning and land use laws commonplace.

Why would we allow this end run around state and local authority, Mr. President? It goes completely against the philosophy of state and local autonomy that so many of my colleagues support.

To try and get to the bottom of this, Mr. President, I'd like to Call the Bankroll, which I do from time to time during my remarks on this floor. I'm going to offer some information about the political donations that have been made by the telecommunications giants that have a huge stake in the wireless communications industry. That industry has been lobbying hard in favor of the FCC rule, which empowers the federal government to overrule local communities that don't want a tower in their town.

During the least election cycle, the following telecommunications companies with a stake in the wireless market gave millions upon millions of dollars to candidates and the political parties:

- Bell Atlantic gave more than $920,000 in soft money and nearly $885,000 in PAC money;
- Wireless manufacturer Motorola gave $100,000 in soft and money and nearly $110,000 in PAC money;
- The Cellular Telecommunications Industry Association, the lobbying arm of the wireless industry, gave more than $100,000 in soft money and more than $85,000 to candidates;
- And AT&T gave nearly $825,000 in soft money to the parties and nearly $820,000 in PAC money to candidates.

Certainly, this FCC rule is not the only thing these companies are lobbying for, Mr. President. But whenever wealthy interests wants something, they have the weight of their contributions behind them. Those contributions influence what we do, and they deserve to be noted in this discussion. I think it's vitally important that we keep these contributions in mind as we evaluate the proposed rule, and we try to understand why the FCC would propose it, and why a Congress full of members who support state and local autonomy would stand for it.

But Mr. President, now I'd like to get to the good news—the bill authored by the distinguished senior senator from Vermont, which would repeal limitations on state and local authority regarding the placement of, construction of and modifications to telecommunications towers. It would do so by prohibiting the FCC from adopting as final the proposed rule. And the bill does so in a responsible manner.

Senator LEAHY's bill incorporates aviation industry concerns by allowing state and local governments to require tower construction applications to be accompanied by documentation showing compliance with applicable state and local aviation standards. It acknowledges alternative technologies which can be used in place of towers, including satellite and cable. It authorizes state and local governments to require evidence from companies showing that the proposed tower would comply with federal health and environmental standards. And it maintains the authority of state and local governments to ensure that companies comply with statements, assertions and representations made while applying for permission to locate a broadcast facility.

Mr. President, as new telecommunication towers have sprouted up by the thousands from coast to coast, so has the ire of our residents. To quote my distinguished colleague from Vermont, I too don't want Wisconsin turned into a giant pin cushion with 200-foot towers sticking out of every hill and valley.

Mr. President, Wisconsin will be a leader in the information age, but Wisconsinites deserve the right to determine where towers are located within Wisconsin. More than a few Wisconsin communities, large and small, have voiced their clear opposition to the heavy hand of the Federal government on this issue. Various communities and groups, from the city of Milwaukee and the Milwaukee Regional Cable Commission to the cities of Fond du Lac and Brookfield to the Dodge County Board of Supervisors, the Lincoln County Zoning Committee, and the Oneida County Planning and Zoning Committee have contacted me to voice their opposition to the proposed rule.

And other communities that have voiced opposition to recent tower siting plans, including Delafield, Fox Point, Bayside, Elm Grove, Germantown, Heartland, Mequon, Muskego, St. Francis, and Whitefish Bay.

One resident of Cassian, Wisconsin, summed up the feeling of many Wisconsinites: ''We don't want to become a tower farm.''

Mr. President, the FCC clearly has overstepped its regulatory bounds. We should empower state and local governments, not emasculate them. I hope my colleagues will support the rights of our states and municipalities, not more Federal autocracy. I commend my colleague for introducing this important piece of legislation.

I yield the floor.

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By Mr. DODD (for himself and Mr. DEWINE):

S. 1539. A bill to provide for the acquisition, construction, and improvement of child care facilities or equipment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

CHILD CARE FACILITIES FINANCING ACT

• Mr. DODD. Mr. President, I am pleased to join Senator DEWINE in introducing the Child Care Facilities Financing Act. This bill would help ease a significant crisis in this country—the shortage of adequate child care, particularly in low-income communities.

The demand for child care is not being met by the current supply, especially for low-income children. Approximately 50% of children from families with household incomes of $10,000 or less are enrolled in child care or early education programs, whereas over 75% of children from families with household incomes over $75,000 are enrolled in such programs.

According to the GAO, the child care supply shortage will worsen as work participation rates required under welfare reform increase over the next few years. The situation is particularly troublesome for infant and school-aged care. For example, in Chicago, the percentage of the demand that can be met by the known supply of child care providers will be only 12% for infants and 17% for school-aged children in the year 2002 if a greater supply is not created. The situation is even more dire in poor neighborhoods.

One factor contributing to the child care shortage is the difficulty that would-be providers face in financing child care facility development. Child care providers are often viewed by financial institutions as risky for loans. Child care equipment and facility needs are unique, making for poor collateral. In low-income neighborhoods, child care providers face severely restricted revenues and low real estate values. In urban areas, would-be child care providers must contend with buildings in poor physical condition and high property costs. In all areas, reimbursement rates for child care subsidies are generally too low to cover the recovery cost of purchasing or developing facilities, especially after allowing for the cost of running the program. In addition, new providers often have no business training, and may need to learn how to manage their finances and business.

The Child Care Facilities Financing Act would provide grants to intermediary organizations, enabling them to provide financial and technical assistance to existing or new child care providers —including both center-based and home-based child care. The financial assistance may be in the form of loans, grants, investments, or other assistance, allowing for flexibility depending on the situation of the child care provider. The assistance may be used for acquisition, construction, or renovation of child care facilities or equipment. It may also be used for improving child care management and business practices. Additionally, intermediary organizations are required to match grant dollars with significant private sector investments, leveraging federal funding and creating valuable public/private partnerships.

The added benefit in providing this kind of assistance is that it will spur further community and economic development. When parents can work with the knowledge that their children are adequately cared for, they become more reliable and productive workers. When the economic situation of families improve, distressed communities become revitalized.

Let me provide you with an example from my state of how financial assistance for child care development has helped alleviate dire situations. In one low-income neighborhood in New Haven, CT, there are 2500 children under the age of 5, but only 200 spaces in licensed child care facilities. For more than a decade, the LULAC Head Start program served this community by operating a part-day early childhood program in a poorly lit church basement. There has been a waiting list of over 100 children for this program. Recently, however, this basement program closed, and the 54 children it served were moved to an already overcrowded location.

Fortunately for LULAC, Connecticut has a new child care financing program. The Child Care Facilities Loan Fund Program is a public-private partnership that provides financial assistance for child care facilities development, targeting school readiness programs in underserved areas. LULAC has finally received desperately needed financial assistance to develop the Hill Parent Child Center. A new facility is being constructed, specially adapted for child care use. The center will now be able to provide multicultural child care, school readiness, and Head Start services for 172 low-income children in New Haven.

Although this story had a happy ending, many more children in New Haven and other places in Connecticut still need child care. And most states do not have a child care financing system in place.

Working parents and their children need adequate child care. Increasing the supply of child care will create a better economy as more parents move from welfare to work, and it will create more choices for parents to gain control over their families' lives. I hope that you will join Senator DEWINE and me in taking an important step toward lifting our nation out of its current child care crisis.

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By Mr. JOHNSON:

S. 1540. A bill to amend the Internal Revenue Code of 1986 to correct the inadvertent failure in the Taxpayer Relief Act of 1997 to apply to exception for developable sites to Round I Empowerment Zone and Enterprise Communities; to the Committee on Finance.

EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES TECHNICAL CORRECTION LEGISLATION

• Mr. JOHNSON Mr. President, I rise today to introduce legislation that would provide a technical correction to laws governing Empowerment Zones and Enterprise Communities (EZ/EC).

In the second round of EZ/EC designations, language was included to allow for investments in 'developable sites.' The developable sites provision provides local leaders with needed flexibility to pursue community and economic development initiatives that advance the goals of the EZ/EC program, but that may include areas adjacent to the local EZ/EC boundaries. Unfortunately, the existing language only applies to Round II EZ/ECs. My bill would expand the existing 'developable site' criteria to Round I EZ/ECs.

The addition of the developable site option represents a thoughtful improvement to administering the EZ/EC program. Thoughtful, worthy initiatives should not go unrealized because of restrictions imposed by a line on a map. The developable site option is a critical tool and it should be applied equally to Round I and Round II awardees. This legislation would not authorize new funding, but it would assist EZs and ECs to invest in meaningful projects located adjacently to their established service area.

I ask my colleagues to join me in this effort to provide equal treatment for Round I EZ/ECs to pursue comprehensive investments for growth and prosperity which may include projects encompassing areas tangential to the designated EZ/EC service area.•

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By Mr. JOHNSON:

S. 1541. A bill to amend the Employee Retirement Income Security Act of 1974 to require annual informational statements by plans with qualified cash or deferred arrangements, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

401 (K) RIGHT TO KNOW ACT

• Mr. JOHNSON. Mr. President, I rise today to introduce legislation, the 401(k) Right To Know Act, to require that 401(k) plan providers implement procedures to disclose the administrative fees that they charge their customers. However, I hope the need for the legislation can be effectively eliminated by voluntary action on the part of the plan providers to disclose fees.

I am concerned that millions of American families work and save for their retirement through 401(k) plans without having an opportunity to fully evaluate and compare the costs of such plans. National news publications have suggested that some plans may be charging plan participants up to 2.5% of assets annually to manage their accounts. While I believe families should be free to choose among competing plans and to participate in retirement savings vehicles of their choice, I am troubled that information about fees is not fully disclosed.

I believe that we have an obligation to make sure that families have access to basic information about fees. Congress encourages people to participate in 401(k) retirement plans by providing considerable tax advantages. We should give equal care to making sure that

businesses and families have the information necessary to protect their nest eggs from excessive, undisclosed fees that threaten to siphon off the rewards of their work and prudence.

Recently the Department of Labor, the American Bankers Association, the American Council of Life Insurance, and the Investment Company Institute announced a plan to address these concerns and provide information about 401(k) fees. I applaud this responsible and important effort. The agreements reached should be given fair consideration and an opportunity to be implemented. It is my sincere hope, that these efforts will be supported by all 401(k) plan providers and that consumers will utilize and benefit from fee disclosure.

Nonetheless, I want to go on record to articulate my lingering concern for the lack of disclosure currently provided and make known my conviction to pursue legislative action should the industry fail to fully implement the goals of disclosure recently agreed upon. Again, I want to reiterate that I believe the recent announcement is an important step to resolve this issue. My goal is to make sure consumers have accurate and timely information about fees readily available to them. I will be monitoring the progress closely and remain hopeful that legislative action will not be necessary to achieve disclosure of 401(k) fees.

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By Mr. BURNS (for himself, Mr. WYDEN, Mr. LOTT, and Mr. HOLLINGS):

S. 1547. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COMMUNITY BROADCASTERS PROTECTION ACT OF 1999

Mr. BURNS. Madame President, I am very pleased to introduce the ''Community Broadcasters Protection Act of 1999,'' along with my colleagues Senator WYDEN, Senator LOTT and Senator HOLLINGS.

This critical legislation was championed last year by my good friend and former colleague Senator Ford. The Commerce Committee unanimously reported this bill on October 2, 1998 but unfortunately there was not sufficient time to complete action on the bill.

Low power television stations (LPTV) offer their communities significant services including valuable local and other specialized programming to unserved and underserved audiences throughout the United States. As secondary service broadcasters, they remain vulnerable to displacement and encounter huge problems with capital formation but have significant infrastructure requirements.

This legislation has a very simple but important purpose. It provides an opportunity for LPTV licensees to convert their temporary licenses to permanent licenses. While the opportunity is available to all licensees, the legislation provides that only those who do a significant amount of local programming in their service areas are eligible for the class A permanent licenses. To ensure a serious and high quality level of local broadcasting by all class A licensees, this bill also requires that all class A licensees comply with the operating rules for full power stations.

I would like to emphasize that this bill takes into account the hearings that were held last year before the House Subcommittee on Telecommunications, during which the Federal Communications Commission noted that the previous bill was not sufficiently flexible to address unforeseen engineering-related problems concerning the transition to digital television. The current bill provides that flexibility to ensure that the Commission can make whatever engineering changes that are necessary, even channel changes, to ensure that every full power station in the U.S. can achieve digital television service replication of its analog service area.

I thank my colleagues for their support on this vital piece of legislation and look forward to seeing it passed by the Senate and into law.

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. 1547

*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 ''Community Broadcasters Protection Act of 1999''.

**SEC. 2. FINDINGS.**

The Congress finds that:

(1) Since the creation of low-power television licenses by the Federal Communications Commission, a number of license holders have operated their stations in a manner beneficial to the public good providing broadcasting to their communities that would not otherwise be available.

(2) These low-power broadcasters have operated their stations in a manner consistent with the programming objectives and hours of operation of full-power broadcasters providing worthwhile services to their respective communities while under sever license limitations compared to their full-power counterparts.

(3) License limitations, particularly the temporary nature of the license, have blocked many low-power broadcasters from having access to capital, and have severely hampered their ability to continue to provide quality broadcasting, programming, or improvements.

(4) The passage of the Telecommunications Act of 1996 has added to the uncertainty of the future status of these stations by the lack of specific provisions regarding the permanency of their licenses, or their treatment during the transition to high definition, digital television.

(5) It is in the public interest to promote diversity in television programming formats by encouraging low power television stations that serve foreign language communities. These communities should not lose their access to foreign language programming as a result of the transition to digital television.

**SEC. 3. PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.**

(a) Section 336 of the Communications Act of 1934 (47 U.S.C. 336) is amended:

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

''(f) Preservation of Low-Power Community Television Broadcasting.

''(1) Creation of Class A Licenses. Within 120 days after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall prescribe regulations to establish a class A television to be available to licensees of qualifying low-power television stations. Such license shall be subject to the same license terms, and renewal standards as the licenses for full-power television stations except as provided in this section, and each class A licensee shall be accorded primary status as a television broadcaster as long as the station continues to meet the requirements for a qualifying low-power station in paragraph (2). Within 30 days after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall send a notice to the licensees of all low-power television licenses that describes the requirements for Class A designation. Within 60 days after the date of enactment of the Community Broadcasters Protection Act of 1999, licensees intending to seek Class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this Act. Absent a material deficiency, the Commission shall grant certification of eligibility to apply for Class A status. The Commission shall act to preserve the contours of low-power television licensees pending the final resolution of a Class A application. Under the requirements set forth in paragraph (2)(A) and (B) and paragraph (6) of this subsection, a licensee may submit an application for Class A designation under this paragraph only within 30 days after final regulations are adopted, except as provided for in Paragraph (6)(A). The Commission shall, within 30 days after receipt of an application that is acceptable for filing, award such a Class A television station license to any licensee of a qualifying low-power television station. If, after granting certification of eligibility or a Class A license, unforeseen technical problems arise that require an engineering solution to a station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission may make such modifications as are necessary to ensure replication of the digital television applicant's service area as provided for in section 622 of the Commission's regulations (47 C.F.R. 602).

''(2) Qualifying low-power television stations. For purposes of this subsection, a station is a qualifying low-power television station if:

''(A) during the 90 days preceding the date of enactment of the Community Broadcasters Protection Act of 1999:

''(i) such station broadcast a minimum of 18 hours per day;

''(ii) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled stations that carry common local programming not otherwise available to their communities; and

''(iii) such station was in compliance with the Commission's requirements applicable to low-power television stations; and

''(B) from and after the date of its application for a Class A license, the station is in

compliance with the Commission's operating rules for full power television stations; or

''(C) the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

''(3) Common ownership. No low-power television station that is authorized as of the date of enactment of the Community Broadcasters Protection Act of 1999 shall be disqualified for a class A license based on common ownership with any medium of mass communication.

''(4) Issuance of licenses for advanced television services to qualifying low-power television stations. The Commission is not required to issue any additional licenses for advanced television services to the licensees of the class A television stations but shall accept such license applications proposing facilities that will not cause interference to any other broadcast facility authorized on the date of filing of the Class A advanced television application. Such new license or the original license of the applicant shall be forfeited at the end of the digital television transition. Low-power television station licensees may, at the option of licensee, elect to convert to the provision of advanced television services on its analog channel, but shall not be required to convert to digital operation until the end of the digital television transition.

''(5) No preemption of section 337. Nothing in this section preempts section 337 of this Act.

''(6) Interim qualification.

''(A) Stations operating within certain bandwidth. The Commission may not grant a Class A license to a low power television station operating between 698 and 806 megahertz, but the Commission shall provide to low power television stations assigned to and temporarily operating in that bandwidth the opportunity to meet the qualification requirements for a Class A license.

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By Mrs. BOXER (for herself and Mr. BINGAMAN):

S. 1548. A bill to establish a program to help States expand the existing education system to include a least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

THE EARLY EDUCATION ACT OF 1999

Mrs. BOXER. Mr. President, I am pleased to introduce today what I think is a very innovative proposal to move our education system into the 21st century.

There has been a growing body of research suggesting that a child's early years are critical to the development of the brain, and that early brain development is an important component of educational and intellectual achievement. Yet, in every state in this country, school does not officially begin until a child is 5 to 6 years old. Many children are missing some critical years.

I submit that as we enter the next century, if we are going to have the best educational system, we must start reaching children at an earlier age.

Head Start does that. Private preschool does that. But Head Start is only for low-income children, and there are not enough slots for all those children eligible to participate. And private preschools are often so expensive that they are out of reach for many middle-class working families.

We need to start thinking outside the box. One way to do that is to redefine what our educational system is. If education before kindergarten—before the age of 5—is so critical, maybe school should start a year earlier.

The legislation that I am introducing today—the Early Education Act—would begin the process of expanding the existing public education system to include at least one year of early education preceding the year a child enters kindergarten. My bill would set up a 10-state demonstration program over the next 5 years for states that want to move in this direction. The Federal Government would provide seed money of up to 50 percent of the costs for participating states to expand elementary school to include at least one year of early education, with that program open to all students in a school district that participates within the state.

A few states, most notably Georgia, are already implementing programs. Several other states, including my state of California, are planning to. In fact, I want to commend our state schools superintendent Delaine Eastin for all of her work in this area.

But even those states that are committed to this idea are finding that resources can be a significant barrier. And so what I want to do is to help states out. Let's see if early education—in those states that are interested—really does make a difference.

We know what the evidence so far shows. Compared to children with similar backgrounds who have not participated in early education programs, children who do participate in such programs perform better on reading and math tests, are more likely to make normal academic progress throughout elementary school, show greater learning retention and creativity, and are more enthusiastic about school.

If these evaluations are accurate—and that is, in part, what my bill is intended to find out—early education has the potential to make significant improvements in the education of our children.

I am pleased to be joined in this effort by Senator BINGAMAN. And I want to recognize Representative ANNA ESHOO, who is introducing the House version of this bill. I encourage my colleagues to join us in working to adapt our educational system for the 21st century.

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. 1548

*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 ''Early Education Act of 1999''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) In 1989 the Nation's governors established a goal that all children would have access to high quality early education programs by the year 2000.

(2) Research suggests that a child's early years are critical to the development of the brain. Early brain development is an important component of educational and intellectual achievement.

(3) The National Research Council reported that early education opportunities are necessary if children are going to develop the language and literacy skills necessary to learn to read.

(4) Evaluations of early education programs demonstrate that compared to children with similar backgrounds who have not participated in early education programs, children who participate in such programs—

(A) perform better on reading and mathematics achievement tests;

(B) are more likely to stay academically near their grade level and make normal academic progress throughout elementary school;

(C) are less likely to be held back a grade or require special education services in elementary school;

(D) show greater learning retention, initiative, creativity, and social competency; and

(E) are more enthusiastic about school and are more likely to have good attendance records.

(5) Studies have estimated that for every dollar invested in quality early education, about 7 dollars are saved in later costs.

**SEC. 3. EARLY EDUCATION.**

Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

**''PART L—EARLY EDUCATION**

**''SEC. 10995. EARLY EDUCATION.**

''(a) DEFINITION OF EARLY EDUCATION.—In this part the term 'early education' means not less than a half-day of schooling each week day during the academic year preceding the academic year a child enters kindergarten.

''(b) PURPOSE.—The purpose of this section is to establish a program to develop the foundation of early literacy and numerical training among young children by helping State educational agencies expand the existing education system to include early education for all children.

''(c) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants to not less than 10 State educational agencies to enable the State educational agencies to expand the existing education system with programs that provide early education.

''(2) MATCHING REQUIREMENT.—The amount provided to a State educational agency under paragraph (1) shall not exceed 50 percent of the cost of the program described in the application submitted pursuant to subsection (d).

''(3) REQUIREMENTS.—Each program assisted under this section—

''(A) shall be carried out by one or more local educational agencies, as selected by the State educational agency;

''(B) shall be carried out—

''(i) in a public school building; or

''(ii) in another facility by, or through a contract or agreement with, a local educational agency;

''(C) shall be available to all children served by a local educational agency carrying out the program; and

''(D) shall only involve instructors who are licensed or certified in accordance with applicable State law.

''(d) APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require. Each application shall—

''(1) include a description of—

''(A) the program to be assisted under this section; and

''(B) how the program will meet the purpose of this section; and

''(2) contain a statement of the total cost of the program and the source of the matching funds for the program.

''(e) SECRETARIAL AUTHORITY.—In order to carry out the purpose of this section, the Secretary—

''(1) shall establish a system for the monitoring and evaluation of, and shall annually report to Congress regarding, the programs funded under this section; and

''(2) may establish any other policies, procedures, or requirements, with respect to the programs.

''(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, not supplant, other Federal, State, or local funds, including funds provided under Federal programs such as Head Start and the Even Start Family Literacy Program under part B of title I.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $300,000,000 for each of the fiscal years 2000 through 2004.''.

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By Mr. HARKIN (for himself Mr. HOLLINGS, and Mr. DORGAN):

S. 1549. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CHILD LABOR FREE CONSUMER INFORMATION ACT OF 1999

Mr. HARKIN. Mr. President, today I am introducing legislation that will inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without the use of abusive and exploitative child labor. I am joined in my efforts by Senators HOLLINGS and DORGAN. I want to thank them for working with me on this important effort.

This is the third time I have come to the floor of the Senate to introduce this bill, and I will continue to introduce it until it becomes law.

I'd like to ask my colleagues to take a moment to look around. Maybe it's the shirt you have on right now. Or the silk tie or blouse. Or the tennis shoes you wear on weekends.

Chances are that you have purchased something—perhaps many things—made with abusive and exploitative child labor. And chances are you were completely unaware that was the case. You will find a label that tells you what size it is, how to care for it and what it costs. But it doesn't tell you about the person who made it.

Mr. President, recently, the International Labor Organization (ILO) released a very grim report about the number of children who toil away in abhorrent conditions. The ILO estimates that over two hundred and fifty million children worldwide under the age of 15 are working instead of receiving a basic education. Many of these children begin working in factories at the age of 6 or 7, some even younger. They are poor, malnourished, and often forced to work 60-hour weeks for little or no pay.

Now when I speak about child labor, I am not talking about 17 year-olds helping out on the family farm or running errands after school. I am speaking about children, often under 12 years old, who are forced to work long hours in hazardous and dangerous conditions many as slaves instead of going to school.

On September 23, 1993, the Senate appropriately put itself on record as expressing its principled opposition to the abhorrent practice of exploiting children for commercial gain and asserting that it should be the policy of the United States to prohibit the importation of products made through the use of abusive and exploitative child labor by passing a Sense of the Senate Resolution I introduced. In my view, this was the first step toward ending child labor.

Americans in Des Moines or Dallas or Detroit may say, ''What does this have to do with us?'' It is quite simple. By protecting the rights of workers everywhere, we will be protecting jobs and opportunities here at home. A U.S. worker cannot compete with a 12 year old working 12 hours a day for 12 cents.

In 1998, the United States imported almost 50 percent of the wearing apparel sold in this country and the garment industry netted $34 billion. According to the Department of Commerce, last year, the United States imported 494.1 million pairs of athletic footwear and produced only 65.3 million here at home.

As I have traveled around the country and spoken with people about the issue of abusive and exploitative child labor, I have found that consumers—ordinary Americans—want to get involved. They want information. They want to know if the products they are buying are made by children.

According to a survey sponsored by Marymount University, more than three out of four Americans said they would avoid shopping at stores if they were aware that the good sold there were made by exploitative and abusive child labor. They also said that they would be willing to pay an extra $1 on a $20 garment if it were guaranteed to be made under legitimate circumstances.

Mr. President it is obvious that consumers don't want to reward companies with their hard earned dollars by buying products made with abusive and exploitative child labor.

This issue demands our attention. Our legislation, the Child Labor Free Consumer Information Act 1999, will inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor. In my view, a system of voluntary labeling holds the best promise of giving consumers the information they want—and giving the companies that manufacture these products the recognition they deserve.

The crux of this legislation is to provide the framework for members of the wearing apparel and sporting goods industry, labor organizations, consumer advocacy and human rights groups along with the Secretaries of Commerce, Treasury and Labor to establish the labeling standard and develop a system to assure compliance that items were not made with abusive and exploitative child labor. Thus, ensuring consumers that the garment or pair of tennis shoes they purchase was made without abusive and exploitative child labor.

In my view, Congress can't do it alone through legislation. The Department of Labor can't do it alone through enforcement. It takes all of us from the private sector to labor and human rights groups to take responsibility, to come together to end abusive and exploitative child labor. And I am pleased to say there has recently been promising action to that end.

Mr. President, when the private sector decides to take speak up—it certainly can make a difference. In Bangladesh, the Bangladesh Garment Manufacturers and Exporters Association has agreed to work with the International Labor Organization to take children out of the garment factories and put them into school—where they belong. As of May 1999, more than 353 schools for former child workers have opened, serving nearly 10,000 children. So, if we can do it in Bangladesh, then we can do it elsewhere.

Mr. President, let me be clear, companies can choose to use the label or not to. This bill is not about big government telling the private sector what to do. This bill is centered around this fundamental principle: Let the Buyer Be Aware. This ''Truth in Labeling'' initiative is based on the principle that a fully informed American consumer will make the right, and moral, choice and vote against abusive and exploitative child labor with their pocketbook.

We have seen such an approach work effectively with the Rugmark label for hand-knotted carpets from India. It is operating in some European countries. Consumers who want to buy child labor-free carpets can just look for the Rugmark label. I visited the Rugmark headquarters in New Delhi, India last year. Mr. President, this initiative is working. It has succeeded in taking children out of the factories and putting them into schools while providing consumers with the information they need. To date, 1.25 million of carpets have received the Rugmark label.

Mr. President, the progress that has been made on eradicating abusive and exploitative child labor is irreversible.

Therefore we must continue to more forward. And I believe my bill allows us to do just that. It allows the consumer to know more about the products they buy and give companies that use the label the recognition they deserve.

Our nation began this century by working to end abusive and exploitative child labor in America, let us close this century by ending child labor around the world. I urge my colleagues to support this legislation.

I ask unanimous consent that a copy of my bill be printed in the RECORD.

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

S. 1549

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Child Labor Free Consumer Information Act of 1999''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Secretary of Labor has conducted at least 5 detailed studies that document the fact that abusive and exploitative child labor exists worldwide;

(2) the Secretary of Labor has also determined, through the studies referred to in paragraph (1), that child laborers are often forced to work beyond their physical capacities or under conditions that threaten their health, safety, and development, and are denied basic educational opportunities;

(3) in most instances, countries that have abusive and exploitative child labor also experience a high adult unemployment rate;

(4) the International Labor Organization (commonly known as the ''ILO'') in 1999 estimated that—

(A) approximately 250,000,000 children who are ages 5 through 14 are working in developing countries; and

(B) many of those children manufacture wearing apparel or sporting goods that are offered for sale in the United States;

(5) consumers in the United States spend billions of dollars each year on wearing apparel and sporting goods;

(6) consumers in the United States have the right to information on whether the articles of wearing apparel (including any section of that wearing apparel) or sporting goods that the consumers purchase are made without abusive and exploitative child labor;

(7) the rugmark labeling and monitoring system is a successful model for eliminating abusive and exploitative child labor in the rug industry;

(8) the labeling of wearing apparel or sporting goods would provide the information referred to in paragraph (6) to consumers; and

(9) it is important to recognize United States businesses that have effective programs to ensure that products sold in the United States are not made with abusive and exploitative child labor.

## TITLE I—CHILD LABOR FREE LABELING STANDARDS

**SEC. 101. CHILD LABOR FREE LABELING STANDARDS.**

(a) ESTABLISHMENT OF LABELING STANDARDS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor, in consultation with the Child Labor Free Commission established under section 201, shall issue regulations to ensure that a label using the terms ''Not Made With Child Labor'', ''Child Labor Free'', or any other term or symbol referring to child labor does not make a false statement or suggestion that an article or section of wearing apparel or sporting good was not made with child labor. The regulations developed under this section shall encourage the use of an easily identifiable symbol or term indicating that the article or section of wearing apparel or sporting good was not made with child labor.

(2) NOTIFICATION ON USE.—

(A) IN GENERAL.—A producer, importer, exporter, distributor, or other person intending to use any label referred to in paragraph (1) shall submit a notification to the Commission for review under subparagraph (C).

(B) NOTIFICATION.—The notification referred to in subparagraph (A) shall include information concerning the source of the article or section of wearing apparel or sporting good to which the label will be affixed, including information on—

(i) the country in which the article or section of wearing apparel or sporting good is manufactured;

(ii) the name and location of the manufacturer; and

(iii) any outsourcing by the manufacturer in the manufacture of the article or section of wearing apparel or sporting good.

(C) REVIEW OF NOTIFICATION.—Upon receipt of the notification, the Commission shall review the notification and inform the Secretary of Labor concerning the findings of the review. The permission of the Secretary of Labor shall be required for the use of the label. The Secretary of Labor, in consultation with the Commission, shall establish procedures for granting permission to use a label under this subparagraph.

(3) FEE.—The Secretary of Labor is authorized to charge a fee to cover the expenses of the Commission in reviewing a notification under paragraph (2). The level of fees charged under this paragraph shall not exceed the administrative costs incurred in reviewing a notification. Fees collected under this paragraph shall be available to the Secretary of Labor for expenses incurred in the review and response of the Commission under this subsection.

(4) APPLICABILITY.—The regulations issued under paragraph (1) shall apply to any label contained in or affixed to—

(A) an article or section of wearing apparel or sporting good that is exported from or offered for sale in the United States;

(B) any packaging for an article or section of wearing apparel or sporting good referred to in subparagraph (A); or

(C) any advertising for an article or section of wearing apparel or sporting good referred to in subparagraph (A).

(5) EFFECTIVE DATE.—The regulations issued under paragraph (1) shall take effect on the date that is 180 days after the date of publication as final regulations.

(b) VIOLATION OF SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT.—It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any article or section of wearing apparel or sporting good that is exported from or offered for sale in the United States—

(1) to falsely indicate on the label of that article or section of wearing apparel or sporting good, the packaging of the article or section of wearing apparel or sporting good, or any advertising for the article or section of wearing apparel or sporting good that the article or section of wearing apparel or sporting good was not made with child labor; or

(2) to otherwise falsely claim or suggest that the article (or section of that article) of wearing apparel or sporting good was not made with child labor.

(c) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—Section 5(m)(1) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)) is amended—

(1) in subparagraph (A), by striking ''The Commission'' and inserting ''Except as provided in subparagraph (D), the Commission'';

(2) in subparagraph (B), by striking ''If the Commission'' and inserting ''Except as provided in subparagraph (D), if the Commission''; and

(3) by adding at the end the following new subparagraph:

''(D)(i)(I) In lieu of the applicable civil penalty under subparagraph (A) or (B), in any case in which the Commission commences a civil action for a violation of section 101 of the Child Labor Free Consumer Information Act of 1999 under subparagraph (A), under subparagraph (B) for an unfair or deceptive practice that is considered to be a violation of this section by reason of section 101(b) of such Act, or under subparagraph (C) for a continuing failure that is considered to be a violation of this section by reason of section 101(b) of such Act, if that violation—

''(aa) is a knowing or willful violation, the amount of a civil penalty for the violation shall be determined under clause (ii); or

''(bb) is not a knowing or willful violation, no penalty shall be assessed against the person, partnership, or corporation that committed the violation.

''(II) For purposes of this subparagraph, if in an action referred to in subclause (I), the Commission asserts that a violation is a knowing and willful violation, the defendant shall bear the burden of proving otherwise.

''(ii) The amount of a civil penalty for a violation under clause (i)(I)(aa) that is committed shall be—

''(I) for an initial violation, an amount equal to the greater of—

''(aa) 2 times the retail value of the articles of wearing apparel or sporting goods mislabeled; or

''(bb) $200,000; and

''(II) for any subsequent violation, an amount equal to the greater of—

''(aa) 4 times the retail value of the articles of wearing apparel or sporting goods mislabeled; or

''(bb) $400,000.''.

(d) SPECIAL FUND TO ASSIST CHILDREN.—

(1) CREATION OF FUND.—There is established in the United States Treasury a special fund to be known as the ''Free the Children Fund''.

(2) TRANSFERS INTO FUND.—There are appropriated to the special fund amounts equivalent to the penalties collected under this section (including the amendments made by this section). The Secretary of the Treasury shall, upon request of the Secretary of Labor, make the amounts in the special fund available to the Secretary of Labor for use by the Secretary of Labor for educational and other programs described in paragraph (3).

(3) AVAILABILITY.—Amounts deposited into the special fund shall be available for educational and other programs with the goal of eliminating child labor.

(e) OTHER INDUSTRIES.—The Commission may, as appropriate, develop labeling standards similar to the labeling standards developed under this section for any industry that is not otherwise covered under this Act and recommend to the Secretary of Labor that those standards be promulgated. If the standards are promulgated by the Secretary of Labor—

(1) the provisions of this Act and the amendments made by this Act shall apply to the labeling covered by those standards in the same manner as they apply to any other standards promulgated by the Secretary of Labor under this section; and

(2) it shall be a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any good that is covered under the labeling standards and that is exported from or offered for sale in the United States—

(A) to falsely indicate on the label of that good, the packaging of the good, or any related advertising that the good was not made with child labor; or

(B) to otherwise falsely claim or suggest that the good was not made with child labor.

**SEC. 102. REVIEW OF PETITIONS BY THE CHILD LABOR FREE COMMISSION.**

(a) IN GENERAL.—In addition to the procedures established under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), the Child Labor Free Commission established under section 201 shall assist the Federal Trade Commission by reviewing petitions under this section.

(b) CONTENTS OF PETITIONS.—A petition under this section shall—

(1) be submitted in such form and in such manner as the Federal Trade Commission, in consultation with the Secretary of Labor and the Child Labor Free Commission, shall prescribe;

(2) contain the name of the—

(A) petitioner; and

(B) person or entity involved in the alleged violation of the labeling standards under section 101; and

(3) provide a detailed explanation of the alleged violation, including all available evidence.

(c) REVIEW BY COMMISSION.—

(1) IN GENERAL.—The Commission shall, to the maximum extent practicable, not later than 90 days after receiving a petition, review the petition to determine whether there appears to have been a violation of the labeling standards.

(2) ACTION BY THE FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—Upon completion of a review conducted under paragraph (1), the Commission shall forward the petition to the Secretary of Labor, together with a report by the Commission containing a determination by the Commission concerning the merits of the petition, including whether a violation of the labeling standards occurred and whether there appears to have been a knowing and willful (within the meaning of section 5(m)(1)(D)(i) of the Federal Trade Commission Act, as added by section 101(c) of this Act) or repeated violation of those standards.

(B) DUTIES OF THE SECRETARY OF LABOR.—Upon receipt of the petition and report, the Secretary of Labor shall—

(i) forward a copy of the petition and report to the Federal Trade Commission for review by the Federal Trade Commission; and

(ii) review the petition and report.

(3) TEMPORARY WITHDRAWAL OF PERMISSION; ORDER TO CEASE AND DESIST.—

(A) TEMPORARY WITHDRAWAL OF PERMISSION.—If the Secretary of Labor determines, on the basis of the report referred to in paragraph (2), that there is a substantial likelihood that a violation of the labeling standards promulgated under section 101 has occurred, the Secretary of Labor may temporarily withdraw the permission granted under section 101(a)(2)(C) and inform the Federal Trade Commission of the action and the reason for the action.

(B) ORDER TO CEASE AND DESIST.—If the Federal Trade Commission concurs with a determination of the Child Labor Free Commission in the report referred to in subparagraph (A) that a violation of the labeling standards has occurred, the Federal Trade Commission shall take such action as may be necessary under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to cause the person or entity in violation of the labeling standards under section 101 to cease and desist from violating those standards immediately upon that concurrence.

## TITLE II—CHILD LABOR FREE COMMISSION

**SEC. 201. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Child Labor Free Commission''.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 17 members, of whom—

(A) 1 shall be the Secretary of Commerce or a designee of the Secretary of Commerce;

(B) 1 shall be the Secretary of the Treasury or a designee of the Secretary of the Treasury;

(C) 1 shall be the United States Trade Representative or a designee of the United States Trade Representative;

(D) 1 shall be the Secretary of Labor or a designee of the Secretary of Labor, who shall serve as the Chairperson of the Commission;

(E) 3 shall be representatives of nongovernmental organizations that work toward the eradication of abusive and exploitative child labor and the promotion of human rights, appointed by the Secretary of Labor;

(F) 3 shall be representatives of labor organizations, appointed by the Secretary of Labor;

(G) 3 shall be representatives of the wearing apparel industry, appointed by the Secretary of Labor;

(H) 3 shall be representatives of the sporting goods industry, appointed by the Secretary of Labor; and

(I) 1 additional member shall be appointed by the Secretary of Labor.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Each member of the Commission shall serve for a term of 4 years, except that in appointing the initial members of the Commission, the Secretary of Labor shall stagger the terms of the members who are not officers or employees of the United States.

(2) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days
after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson or at the request of a majority of the members.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings or other meetings.

**SEC. 202. DUTIES OF THE COMMISSION.**

The Commission shall—

(1) assist the Secretary of Labor in developing labeling standards under section 101;

(2) assist the Secretary of Labor in developing and implementing a system to ensure compliance with the labeling standards established under section 101, including—

(A) receiving, reviewing, and making recommendations for the resolution of petitions received under section 102 that allege noncompliance with the labeling standards under section 101;

(B) making recommendations to the Secretary of Labor for the removal of labels subject to the standards under section 101 that are found to be in violation of those standards;

(C) assisting the Secretary of Labor in developing and implementing a system to promote the increased use of the labeling standards under section 101;

(D) publishing, not less frequently than annually, a list of persons and entities that have notified the Commission of their intent to use a label under section 101(a)(2); and

(E) publishing, not less frequently than annually, a list of persons and entities found to be in violation of any provision of this Act; and

(3) not later than 1 year after the date of the establishment of the Commission, commence a study into the feasibility of developing an easily identifiable labeling standard that the Secretary of Labor may issue to encourage the use of voluntary labels that ensure consumers that an article of wearing apparel or sporting good was made without the use of sweatshop or exploited adult labor.

**SEC. 203. POWERS OF THE COMMISSION.**

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this title. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

**SEC. 204. COMMISSION PERSONNEL MATTERS.**

(a) NON-FEDERAL MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation.

(b) FEDERAL MEMBERS.—Each member of the Commission who is an officer or employee of the United States shall serve without compensation in addition to that received for that member's services as an officer or employee of the United States.

**SEC. 205. ADMINISTRATIVE AND SUPPORT SERVICES.**

The Secretary of Labor shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

**SEC. 206. PERMANENCY.**

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

## TITLE III—RECOGNITION OF EXEMPLARY CORPORATE EFFORTS

**SEC. 301. ANNUAL REPORT.**

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Labor shall issue a report concerning companies that are making exemplary progress in ensuring that products made, sold, or distributed by those companies are not made with abusive and exploitative child labor.

**SEC. 302. ADDITIONAL METHODS.**

In addition to the reports made under section 301, the Secretary of Labor in consultation with the Commission shall develop and implement other methods of providing recognition for exemplary programs carried out

by companies to ensure that products made, sold, or distributed by those companies are not made with abusive and exploitative child labor.

**TITLE IV—DEFINITIONS**

**SEC. 401. DEFINITIONS.**

In this Act:

(1) CHILD.—The term ''child'' means—

(A) an individual who has not attained the age of 15 years, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14 years, as measured by the Julian calendar, in the case of an individual who resides in a country that, by law, defines a child as such an individual.

(2) COMMISSION.—The term ''Commission'' means the Child Labor Free Commission established under section 201.

(3) LABEL.—The term ''label'' means a display of written, printed, or graphic matter on or affixed to an article of wearing apparel or a sporting good or on the packaging of the article or a sporting good that meets the standards described in section 101(a).

(4) MADE WITH CHILD LABOR.—

(A) IN GENERAL.—A manufactured article or section of wearing apparel or a sporting good shall be considered to have been made with child labor if the article or section—

(i) was fabricated, assembled, or processed in whole or in part; or

(ii) contains any part that was fabricated, assembled, or processed in whole or in part, by any child described in subparagraph (B).

(B) COVERED CHILDREN.—A child is described in this subparagraph if that child engaged in the fabrication, assembly, or processing of the article or section—

(i) under circumstances that the Secretary of Labor considers to be abusive or exploitative;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under—

(I) exposure to toxic substances or working conditions that otherwise pose serious health hazards; or

(II) working conditions that result in the child's being deprived of basic educational opportunities.

(5) PRODUCER.—The term ''producer'' includes a contractor or subcontractor of a manufacturer of all or part of a good.

(6) SPORTING GOOD.—The term ''sporting good'' shall have the meaning provided that term by the Secretary of Labor.

(7) WEARING APPAREL.—The term ''wearing apparel'' shall have the meaning provided that term by the Secretary of Labor.

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By Mr. WELLSTONE:

S. 1550. A bill to extend certain Medicare community nursing organization demonstration projects; to the Committee on Finance.

LEGISLATION TO EXTEND CERTAIN MEDICARE COMMUNITY NURSING ORGANIZATION DEMONSTRATION PROJECTS

• Mr. WELLSTONE. Mr. President, I am introducing legislation which will extend Medicare funding for Community Nursing Organization (CNO) demonstration projects within the Health Care Financing Administration. These CNO programs are intended to reduce the breakup in the delivery of health care services, to reduce the use of costly emergency care services, and to improve the continuity of home health and ambulatory care for Medicare beneficiaries. CNOs are responsible for providing home health care, case management, outpatient physical and speech therapy, ambulance services, prosthetic devices, durable medical equipment, and any optional HCFA-approved services appropriate to prevent the need to institutionalize Medicare enrollees.

In Minnesota, the Healthy Seniors Project provides seniors with information and services that have provided an extra level of health care and peace of mind. Through various seminars, programs, and other informational services, these seniors have received information on legal and financial matters specifically as they pertain to senior citizens, as well as information on the services available to help them function and remain in their homes.

These CNO projects are consistent with congressional efforts to introduce a wider range of managed care options to Medicare beneficiaries. Their authorization needs to be extended in order to ensure a fair testing of the CNO managed care concept. We need an extension of this demonstration project to continue to provide an important example of how coordinated care can provide additional benefits without increasing Medicare costs. In addition, we need to further evaluate the impact of the CNO contribution to Medicare patients and to assess their capacity for operating under a fixed budget. Finally, this extension will not increase Medicare expenditures. In fact, CNOs actually save Medicare dollars by providing better and more accessible health care in homes and community settings, rather than unnecessary hospitalizations and nursing home admissions.

Mr. President, I urge my colleagues to support these important cost-saving demonstration projects for another three years.•

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By Mr. HARKIN (for himself, Mr. HOLLINGS, Mr. DORGAN, Mr. LEVIN, Ms. MIKULSKI, and Mr. KENNEDY):

S. 1551. A bill to prohibit the importation of goods produced abroad with child labor, and for other purposes; to the Committee on Finance.

CHILD LABOR DETERRENCE ACT OF 1999

Mr. HARKIN. Mr. President, today I am introducing the Child Labor Deterrence Act of 1999. The bill I am introducing today prohibits the importation of any product made, whole or in part, by children under the age of 15 who are employed in manufacturing or mining. This is the fifth time I have come to the floor of the Senate to introduce this bill, and I will continue to introduce it until it becomes law. I would like to thank Senators HOLLINGS, DORGAN, LEVIN, MIKULSKI and KENNEDY for joining me in this important effort as original cosponsors of this legislation.

The International Labor Organization (ILO) estimates that over two hundred and fifty million children worldwide under the age of 15 are working instead of receiving a basic education. Many of these children begin working in factories at the age of 6 or 7, some even younger. They are poor, malnourished, and often forced to work 60-hour weeks for little or no pay.

Child labor is most prevalent in countries with high adult unemployment rates. According to the ILO, some 61 percent of child workers, nearly 153 million children, are found in Asia; 32 percent, or 80 million, are in Africa and 7 percent, or 175 million, live in Latin America. Adult unemployment rates in some nations runs over 20 percent. In Latin America, for example, about one in every ten children are workers. Furthermore, in many nations where child labor is prevalent, more money is spent and allocated for military expenditures than for education and health services.

The situation is as deplorable as it is enormous. In many developing countries children represent a substantial part of the work force and can be found in such industries as rugs, toys, textiles, mining, and sports equipment manufacturing.

For instance, it is estimated that 65% of the wearing apparel that Americans purchase is assembled or manufactured abroad, therefore, increasing the chance that these items were made by abusive and exploitative child labor. In the rug industry, Indian and Pakistan produce 95% of their rugs for export. Some of the worst abuses of child labor have been documented in these countries, including bonded and slave labor.

Children may also be crippled physically by being forced to work too early in life. For example, a large-scale ILO survey in the Philippines found that more than 60 percent of working children were exposed to chemical and biological hazards, and that 40 percent experienced serious injuries or illnesses.

These practices are often underground, but the ILO report points out that children are still being sold outright for a sum of money. Other times, landlords buy child workers from their tenants, or labor ''contractor'' pay rural families in advance in order to take their children away to work in carpet-weaving, glass manufacturing or prostitution. Child slavery of this type has long been reported in South Asia, South-East Asia and West Africa, despite vigorous official denial of its existence.

Additionally, children are increasingly being bought and sold across national borders by organized networks. The ILO report states that at least five such international networks trafficking in children exist: from Latin America to Europe and the Middle East; from South and South-East Asia to northern Europe and the Middle East; a European regional market; an associated Arab regional market; and, a West Africa export market in girls.

In Pakistan, the ILO reported in 1991 that an estimated half of the 50,000 children working as bonded labor in Pakistan's carpet-weaving industry will never reach the age of 12—victims of disease and malnutrition.

I have press reports from India of children freed from virtual slavery in

the carpet factories of northern India. Twelve-year-old Charitra Chowdhary recounted his story—he said, ''If we moved slowly we were beaten on our backs with a stick. We wanted to run away but the doors were always locked.''

Mr. President, that's what this bill is about, children, whose dreams and childhood are being sold for a pittance—to factor owners and in markets around the globe.

It's about protecting children around the globe and their future. It's about eliminating a major form of child abuse in our world. It's about breaking the cycle of poverty by getting these kids out of factories and into schools. It's about raising the standard of living in the Third World so we can compete on the quality of goods instead of the misery and suffering of those who make them. It's about assisting Third World governments to enforce their laws by ending the role of the United States in providing a lucrative market for goods made by abusive and exploitative child labor and encouraging other nations to do the same.

Mr. President, unless the economic exploitation of children is eliminated, the potential and creative capacity of future generations will forever be lost to the factory floor.

Mr. President, the Child Labor Deterrence Act of 1999 is intended to strengthen existing U.S. trade laws and help Third World countries enforce their child labor laws. The bill directs the U.S. Secretary of Labor to compile and maintain a list of foreign industries and their respective host countries that use child labor in the production of exports to the United States. Once the Secretary of Labor identifies a foreign industry, the Secretary of the Treasury is instructed to prohibit the importation of a product from an identified industry. The entry ban would not apply if a U.S. importer signs a certificate of origin affirming that they took reasonable steps to ensure that products imported from identified industries are not made by child labor. In addition, the President is urged to seek an agreement with other governments to secure an international ban on trade in the products of child labor. Further, any company or individual who would intentionally violate the law would face both civil and criminal penalties.

This legislation is not about imposing our standards on the developing world. It's about preventing those manufacturers in the developing world who exploit child labor from imposing their standards on the United States. They are forewarned. If manufacturers and importers insist on investing in child labor, instead of investing in the future of children, I will work to assure that their products are barred from entering the United States.

Mr. President, as I said when I first introduced this bill five years ago, it is time to end this human tragedy and our participation in it. It is time for greater government and corporate responsibility. No longer can officials in the Third World or U.S. importers turn a blind eye to the suffering and misery of the world's children. No longer do American consumers want to provide a market for goods produced by the sweat and toil of children. By providing a market for goods produced by child labor, U.S. importers have become part of the problem by perpetuating the impoverishment of poor families. Through this legislation, importers now have the opportunity to become part of the solution by ending this abominable practice.

Mr. President, countries do not have to wait until poverty is eradicated or they are fully developed before eliminating the economic exploitation of children. In fact, the path to development is to eliminate child labor and increase expenditures on children such as primary education. In far too many countries, governments spend millions on military expenditures and fail to provide basic educational opportunities to its citizens. As a result, over 130 million children are not in primary school.

In conclusion, Mr. President, this legislation places no undue burden on U.S. importers. I know of no importer, company, or department store that would willingly promote the exploitation of children. I know of no importer, company, or department store that would want their products and image tainted by having their products produced by child labor. And I know that no American consumer would knowingly purchase something made with abusive and exploitative child labor. These entities take reasonable steps to ensure the quality of their goods; they should also be willing to take reasonable steps to ensure that their goods are not produced by child labor.

Mr. President, I urge my colleagues to support this legislation. I ask unanimous consent that a copy of my bill be printed into the RECORD.

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

S. 1551

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Child Labor Deterrence Act of 1999''.

**SEC. 2. FINDINGS; PURPOSE; POLICY.**

(a) FINDINGS.—Congress makes the following findings:

(1) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that ''. . . the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development . . .''.

(2) Article 2 of the International Labor Convention No. 138 Concerning Minimum Age For Admission to Employment states that ''The minimum age specified in pursuance of paragraph 1 of this article shall not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years.''.

(3) The new International Labor Convention addressing the worst forms of child labor calls on member States to take immediate and effective action to prohibit and eliminate such labor. According to the convention, the worst forms of child labor are—

(A) slavery;

(B) debt bondage;

(C) forced or compulsory labor;

(D) the sale or trafficking of children, including the forced or compulsory recruitment of children for use in armed conflict;

(E) child prostitution;

(F) the use of children in the production and trafficking of narcotics; and

(G) any other work that, by its nature or due to the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

(4) According to the International Labor Organization, an estimated 250,000,000 children under the age of 15 worldwide are working, many of them in dangerous industries like mining and fireworks.

(5) Children under the age of 15 constitute approximately 22 percent of the workforce in some Asian countries, 41 percent of the workforce in parts of Africa, and 17 percent of the workforce in many countries in Latin America.

(6) The number of children under the age of 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and national laws in many countries which purportedly prohibit the employment of under age children.

(7) In many countries, children under the age of 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(8) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment, precarious incomes, low living standards, and insufficient education and training opportunities among adult workers.

(9) The employment of children under the age of 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(10) The employment of children under the age of 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregated demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broadbased, self-reliant economic development in many developing countries.

(11) United Nations Children's Fund (commonly known as UNICEF) estimates that by the year 2000, over 1,000,000 adults will be unable to read or write at a basic level because such adults were forced to work as children and were thus unable to devote the time to secure a basic education.

(b) PURPOSE.—The purpose of this Act is to curtail the employment of children under the age of 15 in the production of goods for export by—

(1) eliminating the role of the United States in providing a market for foreign products made by such children;

(2) supporting activities and programs to extend primary education, rehabilitation, and alternative skills training to child workers, to improve birth registration, and to improve the scope and quality of statistical information and research on the commercial exploitation of such children in the workplace; and

(3) encouraging other nations to join in a ban on trade in products described in paragraph (1) and to support those activities and programs described in paragraph (2).

(c) POLICY.—It is the policy of the United States—

(1) to actively discourage the employment of children under the age of 15 in the production of goods for export or domestic consumption;

(2) to strengthen and supplement international trading rules with a view to renouncing the use of under age children in the production of goods for export as a means of competing in international trade;

(3) to amend Federal law to prohibit the entry into commerce of products resulting from the labor of under age children; and

(4) to offer assistance to foreign countries to improve the enforcement of national laws prohibiting the employment of children under the age of 15 and to increase assistance to alleviate the underlying poverty that is often the cause of the commercial exploitation of such children.

**SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTERNATIONAL TRADE IN PRODUCTS OF CHILD LABOR.**

In pursuit of the policy set forth in this Act, the President is urged to seek an agreement with the government of each country that conducts trade with the United States for the purpose of securing an international ban on trade in products of child labor.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) CHILD.—The term ''child'' means—

(A) an individual who has not attained the age of 15, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14, as measured by the Julian calendar, in the case of a country identified under section 5 whose national laws define a child as such an individual.

(2) EFFECTIVE IDENTIFICATION PERIOD.—The term ''effective identification period'' means, with respect to a foreign industry or host country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the foreign industry or host country is published under section 5(e)(1)(A); and

(B) terminates on the date of that issue of the Federal Register in which the revocation of the identification referred to in subparagraph (A) is published under section 5(e)(1)(B).

(3) ENTERED.—The term ''entered'' means entered, or withdrawn from a warehouse for consumption, in the customs territory of the United States.

(4) EXTRACTION.—The term ''extraction'' includes mining, quarrying, pumping, and other means of extraction.

(5) FOREIGN INDUSTRY.—The term ''foreign industry'' includes any entity that produces, manufactures, assembles, processes, or extracts an article in a host country.

(6) HOST COUNTRY.—The term ''host country'' means any foreign country, and any possession or territory of a foreign country that is administered separately for customs purposes (including any designated zone within such country, possession, or territory) in which a foreign industry is located.

(7) MANUFACTURED ARTICLE.—The term ''manufactured article'' means any good that is fabricated, assembled, or processed. The term also includes any mineral resource (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this Act.

(8) PRODUCTS OF CHILD LABOR.—An article shall be treated as being a product of child labor—

(A) if, with respect to the article, a child was engaged in the manufacture, fabrication, assembly, processing, or extraction, in whole or in part; and

(B) if the labor was performed—

(i) in exchange for remuneration (regardless to whom paid), subsistence, goods, or services, or any combination of the foregoing;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(9) SECRETARY.—The term ''Secretary'', except for purposes of section 5, means the Secretary of the Treasury.

**SEC. 5. IDENTIFICATION OF FOREIGN INDUSTRIES AND THEIR RESPECTIVE HOST COUNTRIES THAT UTILIZE CHILD LABOR IN EXPORT OF GOODS.**

(a) IDENTIFICATION OF INDUSTRIES AND HOST COUNTRIES..—

(1) IN GENERAL.—The Secretary of Labor (in this section referred to as the ''Secretary'') shall undertake periodic reviews using all available information, including information made available by the International Labor Organization and human rights organizations (the first such review to be undertaken not later than 180 days after the date of enactment of this Act), to identify any foreign industry that—

(A) does not comply with applicable national laws prohibiting child labor in the workplace;

(B) utilizes child labor in connection with products that are exported; and

(C) has on a continuing basis exported products of child labor to the United States.

(2) TREATMENT OF IDENTIFICATION.—For purposes of this Act, the identification of a foreign industry shall be treated as also being an identification of the host country.

(b) PETITIONS REQUESTING IDENTIFICATION.—

(1) FILING.—Any person may file a petition with the Secretary requesting that a particular foreign industry and its host country be identified under subsection (a). The petition must set forth the allegations in support of the request.

(2) ACTION ON RECEIPT OF PETITION.—Not later than 90 days after receiving a petition under paragraph (1), the Secretary shall—

(A) decide whether or not the allegations in the petition warrant further action by the Secretary in regard to the foreign industry and its host country under subsection (a); and

(B) notify the petitioner of the decision under subparagraph (A) and the facts and reasons supporting the decision.

(c) CONSULTATION AND COMMENT.—Before identifying a foreign industry and its host country under subsection (a), the Secretary shall—

(1) consult with the United States Trade Representative, the Secretary of State, the Secretary of Commerce, and the Secretary of the Treasury regarding such action;

(2) hold at least 1 public hearing within a reasonable time for the receipt of oral comment from the public regarding such a proposed identification;

(3) publish notice in the Federal Register—

(A) that such an identification is being considered;

(B) of the time and place of the hearing scheduled under paragraph (2); and

(C) inviting the submission within a reasonable time of written comment from the public; and

(4) take into account the information obtained under paragraphs (1), (2), and (3).

(d) REVOCATION OF IDENTIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may revoke the identification of any foreign industry and its host country under subsection (a) if information available to the Secretary indicates that such action is appropriate.

(2) REPORT OF SECRETARY.—No revocation under paragraph (1) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(A) stating that in the opinion of the Secretary the foreign industry and host country concerned do not utilize child labor in connection with products that are exported; and

(B) stating the facts on which such opinion is based and any other reason why the Secretary considers the revocation appropriate.

(3) PROCEDURE.—No revocation under paragraph (1) may take effect unless the Secretary—

(A) publishes notice in the Federal Register that such a revocation is under consideration and invites the submission within a reasonable time of oral and written comment from the public on the revocation; and

(B) takes into account the information received under subparagraph (A) before preparing the report required under paragraph (2).

(e) PUBLICATION.—The Secretary shall—

(1) promptly publish in the Federal Register—

(A) the name of each foreign industry and its host country identified under subsection (a);

(B) the text of the decision made under subsection (b)(2)(A) and a statement of the facts and reasons supporting the decision; and

(C) the name of each foreign industry and its host country with respect to which an identification has been revoked under subsection (d); and

(2) maintain and publish in the Federal Register a current list of all foreign industries and their respective host countries identified under subsection (a).

**SEC. 6. PROHIBITION ON ENTRY.**

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), during the effective identification period for a foreign industry and its host country no article that is a product of that foreign industry may be entered into the customs territory of the United States.

(2) EXCEPTION.—Paragraph (1) shall not apply to the entry of an article—

(A) for which a certification that meets the requirements of subsection (b) is provided and the article, or the packaging in which it is offered for sale, contains, in accordance with regulations prescribed by the Secretary, a label stating that the article is not a product of child labor;

(B) that is entered under any subheading in subchapter IV or VI of chapter 98 of the Harmonized Tariff Schedule of the United States (relating to personal exemptions); or

(C) that was exported from the foreign industry and its host country and was en route to the United States before the first day of the effective identification period for such industry and its host country.

(b) CERTIFICATION THAT ARTICLE IS NOT A PRODUCT OF CHILD LABOR.—

(1) FORM AND CONTENT.—The Secretary shall prescribe the form and content of documentation, for submission in connection with the entry of an article, that satisfies the Secretary that the exporter of the article in the host country, and the importer of the article into the customs territory of the United States, have undertaken reasonable

steps to ensure, to the extent practicable, that the article is not a product of child labor.

(2) REASONABLE STEPS.—For purposes of paragraph (1), ''reasonable steps'' include—

(A) in the case of the exporter of an article in the host country—

(i) having entered into a contract, with an organization described in paragraph (4) in that country, providing for the inspection of the foreign industry's facilities for the purpose of certifying that the article is not a product of child labor, and affixing a label, protected under the copyright or trademark laws of the host country, that contains such certification; and

(ii) having affixed to the article a label described in clause (i); and

(B) in the case of the importer of an article into the customs territory of the United States, having required the certification and label described in subparagraph (A) and setting forth the terms and conditions of the acquisition or provision of the imported article.

(3) WRITTEN EVIDENCE.—The documentation required by the Secretary under paragraph (1) shall include written evidence that the reasonable steps set forth in paragraph (2) have been taken.

(4) CERTIFYING ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall compile and maintain a list of independent, internationally credible organizations, in each host country identified under section 5, that have been established for the purpose of—

(i) conducting inspections of foreign industries,

(ii) certifying that articles to be exported from that country are not products of child labor, and

(iii) labeling the articles in accordance with paragraph (2)(A).

(B) ORGANIZATION.—Each certifying organization shall consist of representatives of nongovernmental child welfare organizations, manufacturers, exporters, and neutral international organizations.

**SEC. 7. PENALTIES.**

(a) UNLAWFUL ACTS.—It shall be unlawful, during the effective identification period applicable to a foreign industry and its host country—

(1) to attempt to enter any article that is a product of that industry if the entry is prohibited under section 6(a)(1); or

(2) to violate any regulation prescribed under section 8.

(b) CIVIL PENALTY.—Any person who commits an unlawful act set forth in subsection (a) shall be liable for a civil penalty not to exceed $25,000.

(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any person who intentionally commits an unlawful act set forth in subsection (a) shall be, upon conviction, liable for a fine of not less than $10,000 and not more than $35,000, or imprisonment for 1 year, or both.

(d) CONSTRUCTION.—The unlawful acts set forth in subsection (a) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), including—

(1) the search, seizure, and forfeiture provisions;

(2) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(3) section 619 (relating to compensation to informers).

**SEC. 8. REGULATIONS.**

The Secretary shall prescribe regulations to carry out the provisions of this Act.

**SEC. 9. UNITED STATES SUPPORT FOR DEVELOPMENTAL ALTERNATIVES FOR UNDER AGE CHILD WORKERS.**

In order to carry out section 2(c)(4), there is authorized to be appropriated to the President the sum of—

(1) $30,000,000 for each of fiscal years 2000 through 2004 for the United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor; and

(2) $100,000 for fiscal year 2000 for the United States contribution to the United Nations Commission on Human Rights for those activities relating to bonded child labor that are carried out by the Subcommittee and Working Group on Contemporary Forms of Slavery.

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By Mr. REID:

S. 1552. A bill to eliminate the limitation on judicial jurisdiction imposed by section 377 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, and for other purposes; to the Committee on the Judiciary.

LEGAL AMNESTY RESTORATION ACT OF 1999

Mr. REID. Mr. President, I rise today to introduce the Legal Amnesty Restoration Act of 1999.

This legislation would repeal the limitation on judicial jurisdiction imposed by an obscure, but very lethal provision of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Tucked into that massive piece of legislation was a provision, Section 377, which, in effect, stripped the Federal courts of jurisdiction to adjudicate legalization claims against the Immigration and Naturalization Service. Through this limitation, Section 377 has caused significant hardships, and denied due process and fundamental fairness, for hundreds of thousands of hard working immigrants, including several thousand in my home State of Nevada.

As a direct result of the 1996 legislation, the Ninth Circuit Court of Appeals, with its hands tied by the 377 language, issued a series of rulings in which it dismissed the claims of class members and revoked thousands of work permits and stays from deportation. In Nevada alone, up to 18,000 people had been affected. Good, hard-working people who have been in the United States and paying taxes for more than ten years, suddenly lost their jobs and the ability to support their families.

I say to my colleagues that I have met with many of these people on several occasions, and I have been, firsthand, the pain that this cruel process had caused. Men and women who once knew the dignity of a decent, legal wage have been forced to seek work underground in the effort to make ends meet. Families who lived in homes have been disrupted by an inability to pay the mortgage. Parents who had fulfilled dreams of sending their children to college have seen those dreams turn into nightmares. Children who know that something is desperately wrong by the simple fact that Mom and Dad have not been working for almost a year.

Mr. President, allow me to add a brief history of what has caused these most unfortunate consequences. During the 99th Congress, we passed the Immigration Reform and Control Act of 1986. This law provided a one-time opportunity for certain aliens already in the United States who met specific criteria to legalize their status. In order to do so, these aliens had to show that they had resided continuously in the United States since January 1, 1982.

The statute established a one-year period from May of 1987 to May of 1988, during which the INS was directed to accept and adjudicate applications from persons who wished to legalize their status. In implementing the congressionally-mandated legislation program, however, the INS created new criteria and a number of eligibility rules that were nowhere to be found in the 1986 legislation. The result was that thousands of persons who were in fact eligible for legalization were told they were ineligible or were blocked from filing legislation applications.

Several class-action lawsuits were initiated, and several federal district courts entered interim relief orders blocking deportations while the additional INS restrictions were debated in the courts. These orders also typically required the INS to grant class members temporary employment authorization pending a final resolution of the legal cases. However, by the time the Supreme Court ruled in 1993 that the INS had indeed contravened the 1986 legislation, the one-year period for applying for legalization had obviously passed.

The Court, therefore, divided these people into three different classes for the purposes of determining their standing to sue for the opportunity to submit a legalization application. These Classes are summarized as follows:

Class I: Class members who actually attempted to file applications with the Immigration and Naturalization Service, but were physically prevented from doing so. This policy has led to the term ''front-desked'' class members.

Class II: Class members who did not actually attempt to file an application, but for whom the INS's ''front-desking'' policy was a ''substantial cause'' for their failure to apply.

Class III: Class members who were discouraged from even visiting an INS office because of the INS's very publicized effort at misinforming them that they were ineligible and should not even apply.

While conceding that it had unlawfully narrowed eligibility for legalization, the INS was clearly dissatisfied with the Supreme Court decision. Consequently, the agency employed a different, much more clever approach. Rather than affording the people within these classes due process of law, the INS succeeded in slipping an obscure amendment into the massive 1996 Illegal Immigrant Reform and Responsibility Act which, in effect, stripped the federal courts of their jurisdiction over the claims of Class II and Class III

members. That provision was Section 377, and is now, unfortunately, the law of the land.

Mr. President, as I stated earlier, my legislation would repeal Section 377 of the Illegal Immigration Reform and Responsibility Act of 1996. This course of action would allow the courts, including those with the Ninth Circuit Court of Appeals where Nevada is situated, to reinstate the work permits which were revoked effective September 30, 1998. The restoration of these work permits is critical, for it would allow those immigrants who satisfy the specified criteria to financially support themselves and their families through legal employment while they seek legalized status.

In order to ensure that the Immigration and Naturalization Service implements the legalization program mandated by the Congress in 1986, my legislation would change the date of registry from 1973 to 1984. Those immigrants who were wrongfully denied the opportunity to legalize their status will finally be afforded that which they deserved thirteen years ago. Ironically, it was also during 1986 that the Congress last changed the date of registry.

Making this change, quite simply, just makes sense. We changed the date in 1986 because we recognized that undocumented immigrants who had been in the United States continuously for more than fifteen years were highly unlikely to leave. Furthermore, illegal, undocumented immigrants do not pay their fair share of taxes. This was precisely the rationale considered by the 99th Congress when it debated and passed the Immigration Reform and Control Act of 1986; legislation intentionally circumvented by the INS.

Finally, Mr. President, my legislation would extend the date of registry through 1990 for a narrow class of persons who have been subjected to fraudulent or illegal activity on the part of INS officials or employees. This aspect of my bill is very important to the immigrant community in Nevada as several local INS officials have been convicted, indicted and/or accused of illegal activity in the process of granting or denying benefits to immigrants.

Mr. President, I don't pretend that my legislation will solve all the problems of our immigration and legalization procedures. However, there comes a time when a strong, moral government of the people must make every effort to correct the mistakes of the past. My legislation simply recognizes that the United States government, through the Immigration and Naturalization Services, made some serious errors which, in the name of due process and fundamental fairness, must be remedied.

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By Mr. DOMENICI (for himself and Mr. KENNEDY):

S. 1555. A bill to provide sufficient funds for the research necessary to enable an effective public health approach to the problems of youth suicide and violence, and to develop ways to intervene early and effectively with children and adolescents who suffer depression or other mental illness, so as to avoid the tragedy of suicide, violence, and longterm illness and disability; to the Committee on Health, Education, Labor, and Pensions.

PUBLIC HEALTH RESPONSE TO YOUTH SUICIDE AND VIOLENCE ACT OF 1999

Mr. DOMENICI. Mr. President, I rise today with great pleasure to introduce the ''Public Health Response to Youth Suicide and Violence Act of 1999.'' I would also like to thank my colleague Senator KENNEDY for joining me as a co-sponsor of this legislation.

All too often we read in the paper or see on TV another tragedy involving our children. These stories about violence, death, and suicide have become all too familiar and commonplace in our nation. Unfortunately, the children who commit these acts often suffer from a mental illness.

As I have said many times before the human brain is the organ of the mind and just like the other organs of our body, it is subject to illness. And just as illnesses to our other organs require treatment, so too do illnesses of the brain.

And while we have learned so much more about mental illness and medical science can accurately diagnosis mental illnesses and treat those afflicted, the same cannot be said for children and adolescents. Unfortunately, we still know very little about the causes of mental illness in children and adolescents and moreover, the appropriate treatment for these illnesses.

Before I proceed there is one thing I want to make absolutely clear: I am not for one minute saying we should lessen our focus on law enforcement or incarceration of convicted offenders. Instead, I am simply saying we might be able to prevent some of the tragedies I have mentioned if we knew more about the cause and appropriate treatment for mental illness in children and adolescents.

Today, suicide is the 3rd leading cause of death among individuals between the age of 15 to 24 and the 4th leading cause of death in those 10 to 14 years of age. Estimates show about 1 in 10 children and adolescents suffer from a mental illness that is severe enough to cause some level of impairment. Additionally, many parents with a child suffering from a serious mental disorder believe their child will become violent without appropriate treatment.

Beyond the possibility of suicide and violence, children not receiving treatment for mental disorders not only suffer, cannot learn, and may not form healthy relationships with peers or family, but face an increased likelihood of incarceration as juveniles and adults.

I have come to the conclusion that we must make a renewed investment into discovering the cause and the appropriate treatment of mental illness in children and adolescents. Why is it that certain children may be afflicted with a mental illness and others are not? What is the best course of treatment for a child diagnosed with a mental illness?

Everyone acknowledges that there is a critical lack of information in the area of child and adolescent mental illnesses and in particular the causes and appropriate treatment of such illnesses.

With this in mind, I cannot think of a better entity to take the lead in this endeavor to increase our research and understanding of child and adolescent mental illness than the National Institute of Mental Health. The Institute is already at the forefront of mental illness research and I believe it is uniquely qualified to address the connection between mental illness and youth suicide and violence.

The ''Public Health Response to Youth Suicide and Violence Act of 1999'' simply seeks to reduce incidences of youth suicide and violence through increased research by the National Institutes of Mental Health (NIMH) of children and adolescents suffering from depression or other mental illness.

By providing for increased research the Bill addresses a critical lack of knowledge in the area of child and adolescent mental illnesses and in particular the causes and appropriate treatment of such illnesses that often lead to youth suicide and violence.

The Bill authorizes $200 million for FY 2000 to expand and intensify research aimed at better understanding the underlying causes of mental disorders that lead to youth suicide and violence.

The Bill contains mandatory activities to be carried out by the Director of NIMH that include developing researchers who are trained in the area of childhood mental disorders in order to better understand the development of brain and mental disorders in children, pursue research into the relationship between mental disorders and youth violence and suicide and to develop effective treatments for these disorders.

Additionally, the Director of NIMH will work with the Director of the Centers for Disease Control and Prevention and other appropriate agencies to develop a model to train primary care physicians, nurses, school psychologists, teachers, and other responsible individuals about mental disorders in children.

The Bill also contains permissible activities the Director of NIMH may carry out that include examining the potential of public health programs that combine individual, family, and community level interventions to address suicide and violence and to identify related best practices. Additionally, the Director may develop and evaluate programs aimed at prevention, early recognition, and intervention of depression, youth suicide, and violence in diverse school and community settings.

In conclusion, I would simply restate that I believe expanding research to reduce incidences of youth suicide and violence through increased research of children and adolescents suffering from depression or other mental illness is necessary and I would urge my colleagues to support this important piece of legislation.

Mr. President, I ask unanimous consent that a copy of the bill and a summary of the bill be printed in the RECORD.

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

S. 1555

*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 ''Public Health Response to Youth Suicide and Violence Act of 1999''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Suicide is the third leading cause of death among young people 15 to 24 years of age, following unintentional injuries and homicide, and is the fourth leading cause of death in those 10 to 14 years of age. Scientific research has found that there are an estimated 8 to 25 attempted suicides to 1 completion, and the strongest risk factors for attempted suicide in youth are depression and alcohol or drug use.

(2) There is a critical need for additional research into the underlying causes of youth violence-both suicide and violence against others. 50 percent of parents with a child suffering from a serious mental disorder believe their child would become violent without appropriate treatment and services.

(3) A public health model should seek to ascertain ways to identify children and adolescents who are depressed or suffering from other mental or emotional disorders that might result in violent behavior against themselves or others, as well as long-term illness disability, and to intervene before that occurs.

(4) Not enough is known about serious mental disorders in adolescents and children, devastating illnesses which often lead to school failure, suicide, and violence. A primary reason for this is the lack of trained scientific investigators in this area of research. It is critical that increased efforts be made to strengthen the scientific expertise and capability in the area of child mental disorders.

(5) About 1 in 10 children and adolescents suffer from mental illness severe enough to cause some level of impairment, but fewer than 1 in 5 of these children receives treatment. Children who go untreated not only suffer, cannot learn, and may not form healthy relationships with peers or family, but face an increased likelihood of eventual incarceration as juveniles and adults.

(6) Prevention of youth suicide and violence requires a long-term commitment to comprehensive, cost effective, and sustainable interventions directed at known risk factors, and to the evaluation of their success in diverse community settings by targeting multiple risk factors that predispose them to suicide, delinquency and violence.

(7) Much more information is needed concerning the psychotherapeutic and service system treatment of serious mental illness in children as well as barriers to appropriate and effective treatment and services for these children, in the health care and educational systems.

**SEC. 3. EXPANSION OF ACTIVITIES.**

Subpart 16 of part C of title IV of the Public Health Service Act (42 U.S.C. 285p et seq) is amended by adding at the end the following:

**"SEC. 464U-1. EXPANSION OF RESEARCH ACTIVITIES WITH RESPECT TO CHILDREN.**

''(a) IN GENERAL.—The Director of the National Institute of Mental Health shall use amounts made available under this section to carry out activities to expand and intensify research aimed at better understanding the underlying developmental and other causes of mental disorders that lead to youth suicide and violence.

''(b) MANDATORY ACTIVITIES.—To carry out the purpose described in subsection (a), the Director of the Institute shall—

''(1) work to develop investigators who are trained in the area of childhood mental disorders in order to continue the effort to understand the developing brain and mental disorders in children and to strengthen the capacity to ascertain the factors underlying suicide and other violent behavior in youth;

''(2) expand support for basic research that has led to a better understanding of the structure, function and circuitry of the brain, and which promises to yield even more understanding as neuroimaging techniques become even more sophisticated;

''(3) carry out activities to further encourage research to clarify—

''(A) the relationship between mental disorders and youth violence and suicide;

''(B) the first emergence of mental illnesses in children, including schizophrenia, bipolar disorder, and obsessive-compulsive disorder;

''(C) effective early treatments for such illnesses and disorders; and

''(D) in collaboration with the Director of the Centers for Mental Health Services, where appropriate, the manner in which to effectively disseminate information derived under this paragraph to care-providers in the community;

''(4) in order to address the major problem of lack of recognition of mental disorders, and to ensure appropriate diagnosis and treatment, continue to encourage, in collaboration with the Administrator of the Agency for Health Care Policy and Research, where appropriate, services research aimed at better understanding the impact of mental disorders on children, on their families, on the health care system, and on schools as well as services research aimed at improving care-provider and educator knowledge of mental disorders in children;

''(5) seek to develop, conduct research on, and in collaboration with the Director of the Center for Mental Health Services, where appropriate, disseminate information about, mechanisms for avoiding the inappropriate criminalization of children with mental disorders and the appropriate treatment of any such children in criminal settings;

''(6) in collaboration with the Director of the Centers for Disease Control and Prevention, carry out additional activities to better understand the scope and effect of childhood mental disorders, including epidemiological monitoring and surveillance of childhood mental illness, suicide and incidence of violence;

''(7) in collaboration with the Director of the Centers for Disease Control and Prevention, families dealing with mental illness in their children, and other appropriate agencies, carry out activities to develop a model curriculum of education about mental disorders in children for use in the training of primary care physicians, nurses, school psychologists, teachers, and others individuals responsible for the care of children on an ongoing basis; and

''(8) in collaboration with the Director of the Centers for Disease Control and Prevention, establish a system to provide technical assistance to schools and communities to provide public health information and best practices to enable such schools and communities to handle high-risk youth.

''(c) PERMISSIBLE ACTIVITIES.—To carry out the purpose described in subsection (a), the Director of the Institute may carry out activities—

''(1) relating to research concerning the effects of early trauma and exposure to violence on further childhood development;

''(2) that ensure that the goals of all intervention development under this section include a focus on both effectiveness and sustainability;

''(3) for the development and evaluation of programs aimed at prevention, early recognition, and intervention for depression, youth suicide and violence in diverse school and community settings to determine their effectiveness and sustainability;

''(4) to examine the feasibility of public health programs combining individual, family and community level interventions to address suicide and violence and identify related best practices; and

''(5) to disseminate information to families, schools, and communities concerning the recognition of childhood depression, suicide risk, substance abuse, and Attention Deficit Hyperactivity Disorder in order to decrease the stigma associated with seeking help for such conditions.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $200,000,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 through 2004.''.

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PUBLIC HEALTH RESPONSE TO YOUTH SUICIDE AND VIOLENCE ACT OF 1999

The Bill seeks to reduce incidences of youth suicide and violence through increased research by the National Institutes of Mental Health (NIMH) of children and adolescents suffering from depression or other mental illness.

By providing for increased research the Bill addresses a critical lack of knowledge in the area of child and adolescent mental illnesses and in particular the causes and appropriate treatment of such illnesses that often lead to youth suicide and violence.

THE NEED FOR INCREASED RESEARCH INTO CHILD AND ADOLESCENT MENTAL ILLNESS

Tody suicide is the 3rd leading cause of death among individuals between the age of 15 to 24 and about 1 in 10 children and adolescents suffer from a mental illness that is severe enough to cause some level of impairment.

Beyond possible suicide and violence, children not receiving treatment for mental disorder not only suffer, cannot learn, and may not form healthy relationships with peers or family, but face an increased likelihood of incarceration as juveniles and adults.

INCREASED RESEARCH BY THE NATIONAL INSTITUTE FOR MENTAL HEALTH

The Bill authorizes $200 million for FY 2000 and such sums as may be necessary thereafter to expand and intensify research aimed at better understanding the underlying causes of mental disorders that lead to youth suicide and violence.

Mandatory activities by the Director of NIMH include developing researchers who are trained in the area of childhood mental disorders in order to better understand the development of brain and mental disorders in children. Pursue research into the relationship between mental disorders and youth violence and suicide and to develop effective treatments for these disorders.

Additionally, the Director or NIMH will work with the Director of the Centers for Disease Control and Prevention and other appropriate agencies to develop a model to train primary care physicians, nurses, school psychologists, teachers, and other responsible individuals about mental disorders in children.

Permissible activities by the Director of NIMH include examining the potential of public health programs that combine individual, family, and community level interventions to address suicide and violence to identify related best practices. Additionally, the Director may carry out activities that develop and evaluate programs aimed at prevention, early recognition, and intervention of depression, youth suicide, and violence in diverse school and community settings.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator ABRAHAM as a sponsor of the INS Reform and Border Security Act. This legislation will remedy many of the problems that currently plague the Immigration and Naturalization Service. It will ensure strong enforcement of our immigration laws, and also ensure that immigration and citizenship services are provided expeditiously and with greater respect for dignity of those who benefit from these services.

These two missions—enforcement and services—are equally important. Both are suffering under the current INS structure. The services are in especially dire straits. Over two million would-be US citizens are now trapped in an INS backlog. Individuals languish for years waiting for their naturalization and permanent resident applications to be processed. Files are lost. Fingerprints go stale. Courteous behavior is too often the exception, rather than the rule. Application fees continue to increase—yet poor service and long delays continue as well.

On the enforcement side, the immigration laws are being applied inconsistently. Detention and parole policies and procedures vary widely from district to district. All too frequently, national priorities and directives are ignored at the district level.

Many of these problems are not new. During Commissioner Doris Meissner's impressive tenure, the INS has made significant progress in trying to address the agency's problems. She has done an excellent job under the current structure. But, that structure has proven to be unworkable.

The goal of INS Reform and Border Security Act is to put the INS house in order. It will untangle the overlapping and often confusing organizational structure of the agency and replace it with two clear chains of command—one for enforcement and the other for services. These two equally important divisions will report, through their respective directors, to an Associate Attorney General who will head the Immigration Affairs Agency. This shared central authority over the two branches will ensure a uniform and harmonious immigration policy. Coordination of the two branches is imperative for the efficient functioning of the agency, and for maintaining a coherent immigration policy.

There is strong bipartisan agreement that the INS must be reformed. But restructuring must be done right. Successful reform must separate the enforcement and service functions while maintaining a strong central authority for uniform policy-making, clear accountability, and fiscal responsibility. The INS Reform and Border Security Act accomplishes these aims. The new immigration will be a major improvement over the current INS. I urge my colleagues to join in supporting the INS Reform and Border Security Act.

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By Mr. REED (for himself, Mrs. MURRAY, Mr. KENNEDY, Mr. HARKIN, and Mr. BINGAMAN):

S. 1556. A bill to amend the Elementary and Secondary Education Act of 1965 to strengthen the involvement of parents in the education of their children, and for the other purposes; to the Committee on Heath, Education, Labor, and Pensions.

PARENTAL ACCOUNTABILITY, RECRUITMENT, AND EDUCATION NATIONAL TRAINING ACT OF 1999

Mr. REED. Mr. President, I rise today to introduce the Parental Accountability, Recruitment, and Education National Training (PARENT) Act of 1999, which seeks to increase parental involvement in the educational lives of their children.

Mr. President, research, experience, and reason tell us that providing parents with opportunities to play active roles in their children's schools empowers them to help their children excel. When parents are actively involved in their child's education, not only do their own children go further, but their child's school also improves to the benefit of all students. And, as I have witnessed in Rhode Island, and I am sure my colleagues can attest to this in their home states, our best schools are not simply those with the finest teachers and principals, but those which strive to engage parents in the education of their children.

A recent National PTA survey revealed that 91% of parents recognize the importance of involvement in their children's schools. Unfortunately, even as we extol the virtue of parental involvement, we must recognize that reality falls far short of the goal. The National PTA survey also found that roughly half the parents surveyed felt they were inadequately informed about ways in which they could participate in schools, or even gain access to basic information about their children's studies and their children's teachers. There are also other obstacles to greater parental involvement, such as working parents who find it difficult to get to schools and be involved or parents who have had negative schooling experiences and are wary of entering schools to participate in their children's education.

With 73% of parents favoring a federal effort to help schools get parents more involved with their children's education, the upcoming reauthorization of the Elementary and Secondary Education Act (ESEA) provides an opportunity to help bring schools and parents together, and to ensure parents have the tools to meaningfully and effectively get involved in their children's education. While the ESEA currently contains parental involvement provisions, they mainly apply to Title I schools and students, and have not been fully implemented.

That is why I am pleased to be joined by Senators MURRAY, KENNEDY, HARKIN, and BINGAMAN and Representative LYNN WOOLSEY in the other body in introducing the PARENT Act. This legislation would amend the Elementary and Secondary Education Act (ESEA) to bolster existing and add new parental involvement provisions.

The PARENT Act requires that all schools implement effective, research-based parental involvement best practices. It also seeks to improve parental access to information about their children's education and the school's parental involvement policies; ensure that professional development activities provide training to teachers and administrators on how to foster relationships with parents and encourage parental involvement; utilize technology to expand efforts to connect schools and teachers with parents; and promote parental involvement in drug and violence prevention programs. In addition, the PARENT Act requires any state seeking funding under ESEA to describe, implement, and evaluate parental involvement policies and practices.

To succeed in the endeavor of increasing parental involvement, we must depend on parents, teachers, and school administrators throughout the country to work collaboratively to implement effective programs. However, federal leadership is needed to provide schools, teachers, and parents with the tools adequate to this task.

Mr. President, the bottom line of federal support for education is to increase student achievement. Parental involvement is an essential component to ensuring that our students succeed. This legislation is strongly supported by the National PTA, and I urge my colleagues to join Senators MURRAY, KENNEDY, HARKIN, BINGAMAN, and me in supporting the PARENT Act, and working for its inclusion in the ESEA reauthorization.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

The being no objection, bill was ordered to be printed in the RECORD, as follows:

S. 1556

*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 ''Parental Accountability, Recruitment, and Education National Training Act of 1999''.

**SEC. 2. REFERENCES.**

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment

to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

**SEC. 3. FINDINGS.**

Congress makes the following findings:

(1) Parents are the first and most influential educators of their children.

(2) The Federal Government must provide leadership, technical assistance, and financial support to States and local educational agencies, as partners, in helping the agencies implement successful and effective parental involvement policies and programs that lead to improved student achievement.

(3) State and local education officials, as well as teachers, principals, and other staff at the school level, must work as partners with the parents of the children they serve.

(4) Research has documented that, regardless of the economic, ethnic, or cultural background of the family, parental involvement in a child's education is a major factor in determining success in school.

(5) Parental involvement in a child's education contributes to positive outcomes such as improved grades and test scores, higher expectations for student achievement, better school attendance, improved homework completion rates, decreased violence and substance abuse, and higher rates of graduation and enrollment in postsecondary education.

(6) Numerous education laws now require meaningful parental involvement, including title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and elements of these laws should be extended to other Federal education programs.

**SEC. 4. BASIC PROGRAMS.**

(a) STATE PLAN.—Section 1111 (20 U.S.C. 6311) is amended—

(1) in subsection (b)(2)(B)(ii), by striking ''other measures'' and inserting ''academic achievement and other measures, such as a school or local educational agency's responsibilities under sections 1118 and 1119'';

(2) in subsection (c)(1)(B), by inserting before the semicolon the following: '', and parental involvement under section 1118'';

(3) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(4) by inserting after subsection (c) the following:

''(d) PARENTAL INVOLVEMENT.—Each State plan shall demonstrate that the State has identified or developed effective research-based best practices designed to foster meaningful parental involvement. Such best practices shall—

''(1) be disseminated to all schools and local educational agencies in the State;

''(2) be implemented in all schools in the State; and

''(3) address the full range of parental involvement activities required under section 1118.''.

(b) LOCAL EDUCATIONAL AGENCY PLANS.—Section 1112 (20 U.S.C. 6312) is amended—

(1) in subsection (c)(1)—

(A) by redesignating subparagraphs (D) through (H) as subparagraphs (E) through (I); and

(B) by inserting after subparagraph (C) the following:

''(D) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;''; and

(2) in subsection (e)(3), by inserting before the period the following: ''and if such agency's parental involvement activities are in accordance with section 1118''.

(c) SCHOOLWIDE PROGRAMS.—Section 1114 (20 U.S.C. 6314) is amended—

(1) in subsection (b)(1)(E), by inserting after ''involvement'' the following: ''in accordance with section 1118''; and

(2) in subsection (b)(2)(A)(iv), by inserting after ''results'' the following: ''in a language the family can understand''.

(d) TARGETED ASSISTANCE.—Section 1115(c)(1)(H) (20 U.S.C. 6315(c)(1)(H)) is amended by inserting after ''involvement'' the following: ''in accordance with section 1118''.

(e) ASSESSMENTS.—Section 1116 (20 U.S.C. 6317) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(B) by inserting after paragraph (2) the following:

''(3) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this Act;''; and

(C) in paragraph (4) (as redesignated by subparagraph (3))—

(i) by inserting ''of yearly progress'' after ''annual review''; and

(ii) by striking ''of all'' and inserting ''and the review conducted under paragraph (3), with respect to all'';

(2) in subsection (c)(4), by inserting after ''elements of student performance problems'' the following: '', that addresses school problems, if any, in implementing the parental involvement requirements in section 1118 and the professional development requirements in section 1119,''; and

(3) in subsection (d)(1)—

(A) in subparagraph (A), by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following:

''(B) annually review the effectiveness of the action or activities carried out under this part by each local educational agency receiving funds under this part with respect to parental involvement, professional development, and other activities assisted under this Act; and''; and

(D) in subparagraph (C) (as redesignated by subparagraph (B))—

(i) by inserting ''of yearly progress'' after ''State review''; and

(ii) by inserting '', and of the review conducted under subparagraph (B)'' after ''1111(b)(3)(I)''.

(f) STATE ASSISTANCE.—Section 1117 (20 U.S.C. 6318) is amended—

(1) in subsection (a)(1), by inserting ''parental involvement,'' after ''including''; and

(2) in subsection (c)—

(A) in paragraph (1)(C)—

(i) by inserting ''parents,'' after ''including''; and

(ii) by inserting ''parental involvement programs,'' after ''successful''; and

(B) by inserting at the end the following:

''(4) PARENTAL INVOLVEMENT.—Each State shall collect and disseminate effective parental involvement practices to local educational agencies and schools. Such practices shall—

''(A) be based on the most current research on effective parental involvement that fosters achievement to high standards for all children;

''(B) be geared toward lowering barriers to greater participation in school planning, review, and improvement experienced by parents; and

''(C) be implemented by the State in local educational agencies and schools requesting such assistance from the State.''.

(g) PARENTAL INVOLVEMENT.—Section 1118 (20 U.S.C. 6319) is amended—

(1) in subsection (a)(2)(B), by inserting before the semicolon the following: ''activities that will lead to improved student achievement for all students'';

(2) in subsection (b)(1), by inserting before the last sentence the following: ''Parents shall be notified of the policy in their own language.'';

(3) in subsection (e)(1), by striking ''participating parents'' and inserting ''all parents of children served by the school or agency, as appropriate,'';

(4) in subsection (g), by adding at the end the following: ''Such local educational agencies and schools may use information, technical assistance, and other support from the parental information and resource centers to create parent resource centers in schools.''; and

(5) by adding at the end the following:

''(h) STATE REVIEW.—The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if such policies and practices are meaningful and targeted to improve home and school communication, student achievement, and parental involvement in school planning, review, and improvement.''.

**SEC. 5. PROFESSIONAL DEVELOPMENT.**

(a) PURPOSES.—Section 2002(2) (20 U.S.C. 6602(2)) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) in subparagraph (F), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(G) incorporates training in effective practices in order to encourage and offer opportunities to get parents involved in their child's education in ways that will foster student achievement and well-being; and

''(H) includes special training for teachers and administrators to develop the skills necessary to work most effectively with parents.''.

(b) AUTHORIZED ACTIVITIES.—Section 2102(c) (20 U.S.C. 6622(c)) is amended—

(1) in paragraph (13), by striking ''and'' after the semicolon;

(2) in paragraph (14), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(15) the development and dissemination of model programs that teach teachers and administrators how best to work with parents and how to encourage the parent's involvement in the full range of parental involvement activities described in section 1118.''.

(c) STATE APPLICATIONS.—Section 2205(b)(2) (20 U.S.C. 6645(b)(2)) is amended—

(1) in subparagraph (N), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (O) as subparagraph (P); and

(3) by inserting after subparagraph (N) the following:

''(O) describe how the State will train teachers to foster relationships with parents and encourage parents to become collaborators with schools in their children's education; and''.

(d) STATE-LEVEL ACTIVITIES.—Section 2207 (20 U.S.C. 6647) is amended—

(1) by redesignating paragraphs (12) and (13) as (13) and (14), respectively; and

(2) by inserting after paragraph (11) the following:

''(12) providing professional development programs that enable teachers, administrators, and pupil services personnel to effectively communicate with and involve parents in the education process to support

school planning, review, improvement, and classroom instruction, and to work effectively with parent volunteers;''.

(e) LOCAL PLAN AND APPLICATION FOR IMPROVING TEACHING AND LEARNING.—Section 2208 (20 U.S.C. 6648) is amended—

(1) in subsection (c)(2), by inserting ''parents,'' after ''administrators,''; and

(2) in subsection (d)(1)—

(A) by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively; and

(B) by inserting after subparagraph (H) the following:

''(I) describe the specific professional development strategies that will be implemented to improve parental involvement in education and how such agency will be held accountable for implementing such strategies.''.

(f) LOCAL ALLOCATION.—Section 2210(b)(3) (20 U.S.C. 6650(b)(3)) is amended—

(1) by redesignating subparagraphs (P) and (Q) as subparagraphs (Q) and (R), respectively; and

(2) by inserting after subparagraph (O) the following:

''(P) professional development activities designed to enable teachers, administrators, and pupil services personnel to communicate with parents regarding student achievement on assessments.''.

**SEC. 6. TECHNOLOGY FOR EDUCATION.**

(a) FINDINGS.—Section 3111 (20 U.S.C. 6811) is amended—

(1) in paragraph (6), by inserting ''and by facilitating mentor relationships,'' after ''by means of telecommunications,'';

(2) in paragraph (14), by striking ''and'' after the semicolon;

(3) in paragraph (15), by striking the period and inserting a semicolon; and

(4) by adding at the end the following:

''(16) access to education technology and teachers trained in how to incorporate the technology into their instruction leads to improved student achievement, motivation, and school attendance;

''(17) the use of technology in education can enhance the educational opportunities schools can offer students with special needs; and

''(18) the introduction of education technology increases parental involvement, which has been shown to improve student achievement.''.

(b) STATEMENT OF PURPOSE.—Section 3112 (20 U.S.C. 6812) is amended—

(1) in paragraph (11), by striking ''and'' after the semicolon;

(2) in paragraph (12), by striking the period and inserting ''; and''; and

(3) by adding after paragraph (12), the following:

''(13) development and support for technology and technology programming that will enhance and facilitate meaningful parental involvement.''.

(c) NATIONAL LONG-RANGE TECHNOLOGY PLAN.—Section 3121(c)(4) (20 U.S.C. 6831(c)(4)) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) in subparagraph (F), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(G) increased parental involvement in schools through the use of technology;''.

(d) FEDERAL LEADERSHIP.—Section 3122(c) (20 U.S.C. 6832(c)) is amended—

(1) in paragraph (15), by striking ''and'' after the semicolon;

(2) in paragraph (16), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(17) the development, demonstration, and evaluation of model technology programs designed to improve parental involvement.''.

(e) LOCAL USES OF FUNDS.—Section 3134 (20 U.S.C. 6844) is amended—

(1) in paragraph (5), by striking ''and'' after the semicolon;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(7) utilizing technology to develop or expand efforts to connect schools and teachers with parents to promote meaningful parental involvement and foster increased communication about curriculum, assignments, and assessments; and

''(8) providing ongoing training and support for parents to help the parents learn and use the technology being applied in their children's education, so as to equip the parents to reinforce and support their children's learning.''.

(f) LOCAL APPLICATIONS.—Section 3135 (20 U.S.C. 6845) is amended—

(1) in paragraph (1)(D)—

(A) in clause (i), by striking ''and'' after the semicolon;

(B) in clause (ii), by inserting ''and'' after the semicolon; and

(C) by adding at the end the following:

''(iii) a description of how parents will be informed of, and trained in, the use of technologies, so that the parents will be equipped to reinforce at home the instruction their children receive at school;'';

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ''and'' after the semicolon; and

(B) by adding at the end the following:

''(C) improve parental involvement in schools;'';

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

(4) by adding at the end the following:

''(5) describe how the local educational agency will effectively use technology to promote parental involvement and increase communication with parents.''.

(g) NATIONAL CHALLENGE GRANTS.—Section 3136(c) (20 U.S.C. 6846(c)) is amended—

(1) in paragraph (4), by striking ''and'' after the semicolon;

(2) in paragraph (5), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(6) the project will enhance parental involvement by providing parents the means and the skills needed to more fully participate in their child's learning.''.

**SEC. 7. DRUG-FREE SCHOOLS AND COMMUNITIES.**

(a) STATE APPLICATIONS.—Section 4112 (20 U.S.C. 7112) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by inserting '', including how the agency will receive input from parents regarding the use of such funds'' after ''4113(b)''; and

(B) in paragraph (6), by inserting '', and how such review will include input from parents'' after ''4115''; and

(2) in subsection (c)—

(A) in paragraph (5), by striking ''and'' after the semicolon;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) a specific description of how input from parents will be sought regarding the use of funds under section 4114(a).''.

(b) EVALUATION AND REPORTING.—Section 4117 (20 U.S.C. 7117) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking ''and'' after the semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(C) on the State's efforts to inform parents of and include parents in violence and drug prevention efforts.''; and

(2) in the first sentence of subsection (c), by striking the period and inserting ''and a description of how parents were informed of and participated in violence and drug prevention efforts.''.

**SEC. 8. INNOVATIVE EDUCATION PROGRAM STRATEGIES.**

(a) DEFINITION.—Section 6003 (20 U.S.C. 7303) is amended—

(1) by striking ''children, and (3)'' and inserting ''children, (3) adopting meaningful parental involvement policies and practices, and (4)''; and

(2) by adding at the end the following:

''(F) A climate that promotes meaningful parental involvement in the classroom and in site-based activities.''.

(b) STATE APPLICATIONS.—Section 6202(a) (20 U.S.C. 7332(a)) is amended—

(1) in paragraph (6), by striking ''and'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) provides information on the parental involvement policies and practices promoted by the State.''.

(c) TARGETED USES OF FUNDS.—Section 6301(b) (20 U.S.C. 7351(b)) is amended—

(1) in paragraph (8), by striking ''and'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (9) the following:

''(10) programs to promote the meaningful involvement of parents.''.

(d) LOCAL APPLICATIONS.—Section 6303(a)(1)(A) (20 U.S.C. 7353(a)(1)(A)) is amended by inserting '', including parental involvement,'' before ''designed''.

**SEC. 9. GENERAL PROVISIONS.**

(a) DEFINITION.—Section 14101 (20 U.S.C. 8801) is amended—

(1) by redesignating paragraphs (23) through (29) as paragraphs (24) through (30), respectfully; and

(2) by inserting after paragraph (22) the following:

''(23) PARENTAL INVOLVEMENT.—The term 'parental involvement' means the participation of parents on all levels of a school's operation, including all of the activities described in section 1118.''.

(b) PARENTAL INVOLVEMENT.—Title XIV (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

**''PART H—PARENTAL INVOLVEMENT**

**''SEC. 14901. PARENTAL INVOLVEMENT.**

''(a) STATE PARENTAL INVOLVEMENT PLAN.—In order to receive Federal funding for any program authorized under this Act, a State educational agency shall (as part of a consolidated application, or other State plan or application submitted under this Act) submit to the Secretary—

''(1) a description of the agency's parental involvement policies, consistent with section 1118, including specific details about—

''(A) how Federal funds will be used to implement such policies; and

''(B) successful research-based practices in schools throughout the State; and

''(2) a description of how such policies will be evaluated with respect to increased parental involvement in the schools throughout the State.

''(b) PARENTAL REVIEW OF STATE PARENTAL INVOLVEMENT PLAN.—Prior to making the submission described in subsection (a), a State educational agency shall involve parents in the development of the policies described in such subsection by—

''(1) providing public notice of the policies in a manner and language understandable to parents;

''(2) providing the opportunity for parents and other interested individuals to comment on the policies; and

''(3) including the comments received with the submission.

''(c) LANGUAGE APPLICABILITY.—Each State educational agency and local educational agency that is required to establish a parental involvement plan or policy under a program assisted under this Act shall make available, to the parents of children eligible to participate in the program, the plan or policy in the language most familiar to the parents and in an easily understandable manner.''.

Mr. KENNEDY. Mr. President, I commend Senator REED for introducing this important legislation. I am proud to co-sponsor this bill to ensure that parents have a stronger role in the education of their children.

The first and most important teachers in children's lives are their parents. It is parents who help children begin learning about the world. It is parents who provide motivation and encouragement for academic success. And it is parents who provide indispensable lessons of character. The central role that parents play in the lives of their children requires strong parental involvement in education.

Involving parents in education increases the achievement of all students. Research has repeatedly shown that a child with an involved parent is more likely to attend school regularly, is less likely to engage in violence or substance abuse, and will do better academically and on standardized tests. These fundamental principles apply without regard to the economic status or ethnic background of the parents.

Parental involvement is also a vital part of a child's literacy. Children excel in reading when reading is a regular part of their early education. Students who have a greater array of reading material in the home have higher reading achievement.

We know that increased parental involvement works. In Worcester, the Belmont Community School has instituted a school-wide reading initiative called ''Books and Beyond,'' which is helping children improve their reading skills and encourage their desire to read. Its success is largely due to special workshops and classes for parents, which emphasizes parental involvement, adult literacy training, and strong parent-school partnerships.

The Hueco Elementary School in El Paso, Texas, supports parent involvement in a number of ways. It offers parenting classes throughout the year, including training for parents to support learning at home. It works to increase communication with parents through a Parent Communication Council that meets monthly. Hueco has also hired a successful parent coordinator to help teachers involve parents. This effort has paid off. Now parents have a strong role in the school. They participate in classroom instruction, and they are able to improve their own education. Average attendance has risen to 97 percent. Students whose parents attend workshops and participate in other activities have more success in school and fewer disciplinary problems.

The federal government has a responsibility to be part of the effort to enhance parental involvement. The legislation we are introducing will help states and school districts to create strong ties with parents. It strengthens parental involvement programs in Title I, and encourages schools to use proven techniques for helping teachers and parents work together. It also provides support for connecting schools and parents through technology, and it increases the role of parents in the Safe and Drug-Free Schools and Communities program.

Strong parent involvement will help ensure strong schools. We should do all we can to make sure that federal support for improving public schools provides a strong role for parents. By doing so, we help create the brighter future that all the nation's children deserve.

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By Mr. BAUCUS (for himself and Mr. HATCH):

S. 1558. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for holders of Community Open Space bonds the proceeds of which are used for qualified environmental infrastructure projects, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMUNITY OPEN SPACE BONDS ACT OF 1999

Mr. BAUCUS. Mr. President, I am pleased to introduce the Community Open Space Bonds Act of 1999 with my colleague, the senior Senator from Utah. This bill is designed to give state and local governments more resources to protect open space, preserve water quality, and redevelop brownfield sites. It provides communities with zero-cost financing options for those activities in an entirely voluntary and locally-driven way. There is no Federal land-use planning involved.

The demand for these kinds of community-protection and quality of life activities is plain to see. Open space ballot initiatives in last year's elections were hugely successful. States and local governments set aside nearly $7.5 billion over the next several years to deal with environmental issues raised by growth. Smart growth planning ideas are sweeping the nation. States are steering their investments to preserving open space and encouraging smarter development.

These ideas are coming straight from state and local officials and community leaders. People are discussing how they want their communities to look and feel for the first time in decades. Last fall, a state-wide conference in my home state entitled ''Big Sky or Big Sprawl'' brought together Montanans from all over the state to exchange ideas on how to prepare for growth and keep our state ''the last best place.''

This new attention to the impacts of growth is happening for many reasons. Some claim that transportation planning has not kept up with communities' needs for choices and access, causing congestion and lost productivity. Some say that building codes and subdivision regulations have encouraged the development of agricultural and open space areas at the expense of existing suburbs. Some maintain that the tax code drives development in outlying areas while urban and downtown business districts fail. Others suggest that the Federal government's policies on location of post offices and Federal offices has pushed growth out of small and large cities alike.

Whatever the cause, growth is exploding across the land. For instance, Los Angeles' land use grew by 300 percent between 1970 and 1990, while population grew by only 45 percent. In the same period, Cleveland actually lost 11 percent of its population, but grew by 33 percent in size.

The problem is not growth per se, but the inefficient way that current growth is using today's infrastructure. Some cities like Bozeman, Montana, have had to resort to impact assessment fees in the outlying areas so that the established city's system would not have to subsidize growth away from the already built up areas. The challenge is to encourage growth while maintaining open space and other factors that make our communities desirable places to live and work.

Because of our quality of life in the West, people are moving there in droves. We pride ourselves on having lots of space and we want growth.

But, growth in environmentally sensitive and water restricted areas poses some unique problems. We have vast amounts of public land that are getting harder and harder to access as growth crowds these areas. That means fewer hunters, fishermen, hikers, and outdoor enthusiasts, can use these lands easily.

One result of this growth is that the character of the West is changing rapidly. For instance, Montana grew faster than the rest of the nation in the 1990s. That rate of growth, especially when it is concentrated in a small number of areas, concerns people. They start turning to their state and local government representatives for action to preserve the character of their communities.

A recent poll showed that most Americans believe that government at all levels could do a better job of protecting and creating parks and conserving open space. That same poll showed that they are willing to pay for such programs and that they view these programs as a relatively high priority. Leaders at all levels of government should heed these results.

Mr. President, the bill we are introducing today is intended to help address this need. We want to give communities the flexible resources they need to creatively manage growth-related problems at the local level.

In developing the Community Open Space Bonds Act of 1999, we started with the proposal included in the Administration's FY2000 budget request. We have improved upon it to make it more responsive to local needs and to be equitable in its treatment of small and Western communities.

However, the basic idea is still the same. States and local governments, including tribal governments, can compete for the authority to issue bonds on which the Federal government will pay the interest costs. The proceeds from the sale of the bonds can be used to acquire open space, build parks, protect water quality, improve access to public lands and redevelop brownfield areas. Up to $1.9 billion in bonding authority could be issued over each of the next five years. The Federal government would pay the interest costs by giving bondholders a tax credit against their income at the corporate AA credit rate.

Rather than having Federal agencies making all the decisions about who gets bonding authority, we are establishing a Community Open Space Bonds Board. This Board will be dominated by non-Federal interest, such as Governors, County Commissioners, Mayors, etc. and will be given specific guidance to use in developing application criteria. This guidance will stress the need for an equitable distribution of bonding authority to all regions of the country and to all sizes of communities and for all the different qualifying purposes. We have also guaranteed that each state or a community in such a state will get at least one allocation of bonding authority per year.

We think these modifications improve the original proposal and are worthy of support by our colleagues from both sides of the aisle. We stand ready to work with them to address their concerns and get this bill enacted.

Mr. President, local governments across the country are looking for new and low-cost ways to maintain and preserve the quality of life in their area. Community Open Space Bonds are a great opportunity for all our citizens to improve the long term health and economic viability of our communities. I am hopeful we can pursue this opportunity in a bipartisan and constructive way.

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. 1558

*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 ''Community Open Space Bonds Act of 1999''.

**SEC. 2. CREDIT FOR HOLDERS OF COMMUNITY OPEN SPACE BONDS.**

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

*''Subpart H—Nonrefundable Credit for Holders of Community Open Space Bonds*

''Sec. 54. Credit to holders of Community Open Space bonds.

**''SEC. 54. CREDIT TO HOLDERS OF COMMUNITY OPEN SPACE BONDS.**

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Community Open Space bond on a credit allowance date which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bonds.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Community Open Space bond is an amount equal to the product of—

''(A) the credit rate determined by the Secretary under paragraph (2), multiplied by

''(B) the face amount of the bond held by the taxpayer on the credit allowance date.

''(2) DETERMINATION.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any 3-month period ending on a credit allowance date is the percentage which the Secretary estimates will on average equal the yield on corporate bonds outstanding on the day before the date of such determination.

''(3) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to each of the 5 taxable years following the unused credit year and added to the credit allowable under subsection (a) for each such taxable year, subject to the application of paragraph (1) to such taxable year.

''(d) COMMUNITY OPEN SPACE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'Community Open Space bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the proceeds of such issue are to be used for a qualified environmental infrastructure project,

''(B) the bond is issued by a State or local government,

''(C) the issuer—

''(i) designates such bond for purposes of this section,

''(ii) has a reasonable expectation that at least 10 percent of the proceeds of such issue will be spent for qualifying environmental infrastructure projects within 6 months of the date such bonds are issued,

''(iii) certifies such proceeds will be used with due diligence for qualified environmental infrastructure projects, and

''(iv) has a reasonable expectation that any property acquired or improved in connection with the proceeds of such issue, other than property improved in connection with a qualified environmental infrastructure project described in paragraph (2)(A)(v), shall continue to be dedicated to a qualified use for a period of not less than 15 years from the date of such issue,

''(D) such bond satisfies public approval requirements similar to the requirements of section 147(f)(2),

''(E) except as provided in paragraph (4)(B), the payment of the principal of such issue is secured by taxes of general applicability imposed by a general purpose governmental unit, and

''(F) the term of each bond which is part of such issue does not exceed 15 years.

''(2) QUALIFIED ENVIRONMENTAL INFRASTRUCTURE PROJECT.—

''(A) IN GENERAL.—The term 'qualified environmental infrastructure project' means—

''(i) acquisition of qualified property for use as open space, wetlands, public parks, or greenways, or to improve access to public lands by non-motorized means,

''(ii) construction, rehabilitation, or repair of a visitor facility in connection with qualified property, including nature centers, campgrounds, and hiking or biking trails,

''(iii) remediation of qualified property to enhance water quality by—

''(I) restoring natural hydrology or planting trees and streamside vegetation,

''(II) controlling erosion,

''(III) restoring wetlands, or

''(IV) treating conditions caused by the prior disposal of toxic or other waste,

''(iv) acquisition of a qualified easement in order to maintain the use and character of the property in connection to which such easement is granted as open space, including an easement to allow access to public land by non-motorized means, and

''(v) environmental assessment and remediation of real property and public infrastructure owned by a governmental unit and located in an area where or on which there has been a release (or threat of release) or disposal of any hazardous substance (within the meaning of section 198), but not including any property described in subparagraph (D).

''(B) QUALIFIED PROPERTY.—The term 'qualified property' means real property—

''(i) which is, or is to be, owned by—

''(I) a governmental unit, or

''(II) an organization described in section 501(c)(3) and exempt from taxation under section 501(a) and which has as one if its purposes environmental preservation, and

''(ii) which is reasonably anticipated to be available for use by members of the general public, unless such use would change the character of the property and be contrary to the qualified use of the property.

''(C) SAFE HARBOR FOR MANAGEMENT CONTRACTS.—For purposes of subparagraph (B), property shall not be treated as qualified property if any rights or benefits of such property inure to a private person other than rights or benefits under a management contract or similar type of operating agreement to which rules similar to the rules applicable to tax-exempt bonds apply.

''(D) CERCLA PROPERTY.—Property is described in this subparagraph if any portion of such property is included, or proposed to be included, in the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)).

''(E) LIMIT ON DISPOSITION OF PROPERTY.—Any disposition of any interest in property

acquired or improved in connection with a qualified environmental project described in this paragraph (except a project described in subparagraph (A)(v)) shall contain an option (recorded pursuant to applicable State or local law) to purchase such property for an amount equal to the original acquisition price of such property for any interested organizations described in subparagraph (B)(i)(II) if such organization purchases such property subject to a restrictive covenant requiring a continued qualified use of such property.

''(3) TEMPORARY PERIOD EXCEPTION.—

''(A) IN GENERAL.—A bond shall not be treated as failing to meet the requirement of paragraph (1)(A) solely by reason of the fact that the proceeds of the issue of which such bond is a part—

''(i) are invested for a reasonable temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued, or

''(ii) are used within 90 days of the close of such temporary period to redeem bonds which are a part of such issue.

Any earnings on such proceeds during the period under clause (i) shall be treated as proceeds of the issue for purposes of applying paragraph (1)(A).

''(B) INVESTMENT OF PROCEEDS.—For purposes of subparagraph (A), proceeds shall only be invested in—

''(i) Government securities, and

''(ii) in the case of a sinking fund established by the issuer, State and local government securities issued by the Treasury.

''(4) SPECIAL RULES FOR PROJECTS DESCRIBED IN PARAGRAPH (2)(A)(v).—

''(A) LIMIT ON USE OF PROCEEDS FOR PROJECT.—This subsection shall not apply to any bond issued as part of an issue if an amount of the proceeds from such issue are used for a qualified environmental infrastructure project described in paragraph (2)(A)(v) and involving public infrastructure in excess of an amount equal to 5 percent of the total amount of such proceeds used for all projects described in such paragraph (2)(A)(v).

''(B) PRIVATE USE AND REPAYMENT OF PROCEEDS.—In the case of proceeds of an issue which are used for a qualified environmental infrastructure project described in paragraph (2)(A)(v), the issue of which such bonds are a part shall not fail to meet the requirements of this subsection solely because the proceeds of a disposition of any interest in such property are used to redeem such bonds as long as the purchaser of such property makes an irrevocable election not to claim any deduction with respect to such project under section 198.

''(5) RECAPTURE OF CREDIT AMOUNT.—

''(A) IN GENERAL.—If, during the taxable year, any bond that is part of an issue under this section fails to meet the requirements of this subsection—

''(i) such bond shall not be treated as a Community Open Space bond for such taxable year and any succeeding taxable year, and

''(ii) the issuer of such bond shall be liable for payment to the United States of the credit recapture amount.

Such payment shall be made at such time and in such manner as determined by the Secretary.

''(B) CREDIT RECAPTURE AMOUNT.—For purposes of subparagraph (A), the credit recapture amount is an amount equal to the sum of—

''(i) the aggregate amount of credit allowed with respect to such bond for the 3 preceding taxable years, plus

''(ii) interest (at the underpayment rate established under section 6621) on the credit amount from the date such credit was allowed to the payment date under subparagraph (A).

''(e) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a Community Open Space bond limitation for each calendar year equal to—

''(A) $1,900,000,000 for each of years 2000 through 2004, and

''(B) except as provided in paragraph (3), zero after 2004.

''(2) ALLOCATION OF LIMITATION AMONG STATES AND LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—The limitation amount to be allocated under paragraph (1) for any calendar year shall be allocated among States and local governments with an approved application on a competitive basis by the Community Open Space Bonds Board (referred to in this subsection as the 'Board') established under section 3 of the Community Open Space Bonds Act of 1999.

''(B) APPROVED APPLICATION.—For purposes of subparagraph (A), the term 'approved application' means an application which is approved by the Board, and which includes such information as the Board requires.

''(C) ALLOCATION TO EACH STATE.—The Board shall, in accordance with the criteria for approval of applications, allocate amounts in any calendar year to at least 1 approved application from each State, or local government of such State, which submits such application.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the limitation amount under paragraph (1), exceeds

''(B) the aggregate limitation amount allocated to States and local governments under this section,

the limitation amount under paragraph (1) for the following calendar year shall be increased by the amount of such excess. No limitation amount shall be carried forward under this paragraph more than 3 years.

''(f) OTHER DEFINITIONS; SPECIAL RULES.—For purposes of this subpart—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(3) QUALIFIED EASEMENT.—The term 'qualified easement' means a perpetual easement—

''(A) which would be a qualified conservation contribution under section 170(h) if such easement were a contribution under such section, and

''(B) which is to be held by an entity described in subclause (I) or (II) of subsection (d)(2)(B)(i).

''(4) QUALIFIED USE.—The term 'qualified use' means, with respect to property, a use which is consistent with the purpose of the qualified environmental infrastructure project related to such property.

''(5) STATE.—The term 'State' includes the District of Columbia, any possession of the United States, and any Indian tribe (as defined in section 45A(c)(6)).

''(6) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section and the amount so included shall be treated as interest income.

''(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Community Open Space bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a Community Open Space bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person which, on the credit allowance date, holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the Community Open Space bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(j) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a Community Open Space bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

''(k) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

''(l) REPORTING.—Issuers of Community Open Space bonds shall submit reports similar to the reports required under section 149(e).''

(b) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following:

''(8) REPORTING OF CREDIT ON COMMUNITY OPEN SPACE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(f)(2)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Subpart H. Nonrefundable Credit for Holders of Community Open Space Bonds.''

(2) Section 6401(b)(1) of such Code is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1999.

**SEC. 3. COMMUNITY OPEN SPACE BONDS BOARD.**

(a) ESTABLISHMENT.—There is established in the Executive Branch a board to be known

as the Community Open Space Bonds Board (in this section referred to as the ''Board'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Board shall be composed of 18 members, as follows:

(A) 3 members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

(B) 8 members, not be affiliated with the same political party, shall be individuals who represent Governors, or other chief executive officers, of a State, mayors, and county commissioners and who are appointed by the President, by and with the advice and consent of the Senate.

(C) 1 member shall be the Administrator of the Environmental Protection Agency or the Administrator's designee.

(D) 1 member shall be the Secretary of Agriculture or the Secretary's designee.

(E) 1 member shall be the Secretary of Housing and Urban Development or the Secretary's designee.

(F) 1 member shall be the Secretary of Interior or the Secretary's designee.

(G) 1 member shall be the Secretary of Transportation or the Secretary's designee.

(H) 1 member shall be the Secretary of the Treasury or the Secretary's designee.

(I) 1 member shall be the Director of the Federal Emergency Management Agency or the Director's designee.

(2) QUALIFICATIONS AND TERMS.—

(A) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in 1 or more of the following areas:

(i) Tax-exempt organizations which have as a principal purpose environmental protection and land conservation.

(ii) Community planning.

(iii) Real estate investment and bond financing.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence and should represent each position contained in such paragraph and different regions of the country.

(B) TERMS.—Each member who is described in subparagraph (A) or (B) of paragraph (1) shall be appointed for a term of 3 years, except that of the members first appointed—

(i) 3 member shall be appointed for a term of 1 year,

(ii) 4 members shall be appointed for a term of 2 years, and

(iii) 4 members shall be appointed for a term of 3 years.

(C) REAPPOINTMENT.—An individual who is described in subparagraph (A) or (B) of paragraph (1) may be appointed to no more than one 3-year term on the Board.

(D) VACANCY.—Any vacancy on the Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(3) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting. Subsequent meetings shall be determined by the Board by majority vote or held at the call of the Chairperson.

(4) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(5) CHAIRPERSON.—The member described in paragraph (1)(C) shall serve as the Chairperson of the Board.

(6) REMOVAL.—

(A) IN GENERAL.—Any member of the Board appointed under subparagraph (A) or (B) of paragraph (1) may be removed at the will of the President.

(B) SECRETARIES; DIRECTOR; ADMINISTRATOR.—An individual described in subparagraphs (C) through (I) of paragraph (1) shall be removed upon termination of service in the office described in each such subparagraph.

(c) DUTIES OF THE BOARD.—

(1) IN GENERAL.—The Board shall review applications for allocation of the Community Open Space bond limitation amounts under section 54(e)(2) of the Internal Revenue Code of 1986 and approve applications in accordance with published criteria.

(2) CRITERIA FOR APPROVAL.—The Board shall promulgate a regulation to develop criteria for approval of applications under paragraph (1), taking into consideration the following guidelines:

(A) A distribution pattern of the overall limitation amount available for the year which results in the financing of each category of qualified environmental infrastructure project and results in an even distribution among different regions of the country and sizes of communities.

(B) State or local government support of proposed projects.

(C) Proposed projects which meet local and regional environmental protection or planning goals and leverage or make more efficient or innovative the use of other public or private resources.

(D) Proposed projects which are intended to maintain the viability of existing central business districts, preserve the community's distinct character and values, and encourage the reuse of property already served by public infrastructure.

(E) The extent of expected improvement in environmental quality, outdoor recreation opportunities, and access to public lands.

(3) ANNUAL REPORT.—The Board shall annually report with respect to the conduct of its responsibilities under this section to the President and Congress and such report shall include—

(A) the overall progress of the Community Open Space bond program, and

(B) the overall limitation amount allocated during the year and a description of the amount, region, and qualified environmental infrastructure project financed by each allocation.

(4) CONFLICT OF INTEREST.—The Board shall carry out its duties under this subsection in such a way to ensure that all conflicts of interest of its members are avoided.

(d) POWERS OF THE BOARD.—

(1) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Board may secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section, including the published and unpublished data and analytical products of the Bureau of Labor Statistics. Upon request of the Chairperson of the Board, the head of such department or agency shall furnish such information to the Board.

(3) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) BOARD PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Board who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who otherwise are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Board.

(B) COMPENSATION.—The Chairperson of the Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board without additional reimbursement (other than the employee's regular compensation), and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

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

(1) STATE.—The term 'State' includes the District of Columbia, any possession of the United States, and any Indian tribe (as defined in section 45A(c)(6)).

(2) QUALIFIED ENVIRONMENTAL INFRASTRUCTURE PROJECT.—The term 'qualified environmental infrastructure project' has the same meaning given that term in section 54(d)(2) of the Internal Revenue Code of 1986.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board such sums as are necessary to carry out the purposes of this section.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS.—The President shall submit the initial nominations under subparagraphs (A) and (B) of subsection (b)(1) to the Senate not later than 90 days after the date of the enactment of this Act.

(3) REGULATIONS.—Not later than January 1, 2000, the Board shall publish in the Federal

Register the guidelines and criteria for submission and approval of applications under subsection (c).

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By Mr. LAUTENBERG:

S. 1559. A bill to amend title 49, United States Code, to enhance the safety of motor carrier operations and the Nation's highway system, including highway-rail crossings, by amending existing safety laws to strengthen commercial driver licensing, to improve compliance, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER SAFETY ACT OF 1999

Mr. LAUTENBERG. Mr. President, I rise to introduce legislation to save lives on our highways the Motor Carrier Safety Act of 1999.

Every year over 5000 people die due to truck and bus accidents. Since 1992, violent truck crash fatalities have increased more than 18 percent. Large trucks are only three percent of the total national vehicle fleet—but 22 percent of all passenger vehicle deaths in multiple-vehicle crashes involve trucks.

Whether we share the road with a truck or ride on an interstate bus, Americans need to be sure their nation's roads are safe.

Last December in New Jersey, three intercity buses crashed in five days. That accident rate is unacceptable. We can and must prevent these accidents with stronger oversight of commercial drivers' licenses and the carriers that operate both bus and truck companies.

Mr. President, my legislation addresses our commercial vehicle death epidemic with a multi-faceted approach to combating this problem.

First, my legislation institutes a strong Commercial Driver's License (CDL) program. All convictions for moving violations, whether in a commercial vehicle or not, are put on the truck or bus drivers' record. A new applicant must have a alcohol and drug free driving record for 3 years before receiving a CDL. All new drivers would be required to have in-vehicle training. It would authorize up to a 5 percent transfer of state's Federal highway funds to motor carrier safety programs if a state does not institute the new CDL program.

Second, the legislation focuses on the carriers. All new carriers are required to have training on the Federal Motor Carrier Safety regulations before they receive authority to operate. To close unsafe carriers, they are required to submit information to target high-risk operations and the definition of a hazardous carrier is strengthened.

Third, the installation of on-board recorders or other technologies to manage drivers' hours-of-service will be required.

Fourth, the legislation supports improve data collection and research for safety issues including vehicle safety and driver performance, (2) improved crash data, and (3) driver compensation and safety.

Fifth, the legislation funds grassroots safety campaigns to raise public awareness of the importance of motor carrier safety and discourage drivers from taking safety risks.

Finally, the legislation has both incentives for the states to implement motor carrier safety improvements and rewards to the states who improve motor carrier safety fatalities by five percent of the previous year.

Mr. President, we must do more to prevent unnecessary deaths caused by the lack of oversight of commercial vehicles.

With this legislation, citizens will feel more secure about driving on our roads and highways.

I hope that my colleagues will join me in support of this legislation.

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. 1559

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**TITLE I—MOTOR CARRIER SAFETY**

**SEC. 101. SHORT TITLE.**

This title may be cited as the ''Motor Carrier Safety Act of 1999''.

**SEC. 102. COMMERCIAL DRIVERS' LICENSES.**

(a) DRIVER'S LICENSE CRITERIA.—Section 31305(a) of title 49, United States Code, is amended by—

(1) striking ''and'' after the semicolon in paragraph (7);

(2) redesignating paragraph (8) as paragraph (9); and

(3) adding a new paragraph (8) after paragraph (7) as follows:

''(8) shall ensure that an individual who operates or will operate a commercial motor vehicle has received training, including in-vehicle training, in the safe operation of a motor vehicle of the type the individual operates or will operate; and''.

(b) MOVING TRAFFIC VIOLATIONS.—Section 31311(a) of title 49, United States Code, is amended by—

(1) redesignating paragraph (17) as paragraph (18); and

(2) adding a new paragraph (17) after paragraph (16) as follows:

''(17) The State shall record on a driver's commercial driver's license record each conviction for a moving traffic violation, including such a conviction for a violation committed in a noncommercial motor vehicle.''.

(c) DRUG- OR ALCOHOL-RELATED VIOLATIONS.—Section 31311(a) of title 49, United States Code, is further amended by adding a new paragraph at the end as follows:

''(19) The State may not issue a commercial driver's license to an individual within 3 years after the date the individual was convicted of any drug- or alcohol-related traffic violation, including a conviction for a violation committed in a noncommercial motor vehicle.''.

(d) DIVERSION OR SPECIAL LICENSING PROGRAMS.—Section 31311(a)(10) of title 49, United States Code, is amended by adding a new sentence at the end as follows: ''The State may not issue a special license or permit to a commercial driver's license holder that permits the driver to drive a commercial motor vehicle during a period in which the individual is disqualified from operating a commercial motor vehicle or the individual's driver's license is revoked, suspended, or canceled.''.

(e) TRANSFER OF AMOUNTS FOR STATE NONCOMPLIANCE.—(1) Section 31314 of title 49, United States Code, is amended to read as follows:

**''§ 31314. Transfer of amounts for State noncompliance**

''(a) IN GENERAL.—On October 1, 2001, or as soon thereafter as practicable, and each October 1 thereafter, if a State has not complied substantially with all requirements of section 31311(a) of this title, the Secretary of Transportation shall transfer up to 5 percent of the amount required to be apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) of title 23 to the amount made available to the State to carry out section 31102.

''(b) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this section any funds to the apportionment to a State under section 31102 of this title for a fiscal year, the Secretary shall transfer an equal amount of obligation authority distributed for the fiscal year to the State.

''(c) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations to carry out section 31102 of this title shall apply to funds transferred under this section to the apportionment of a State under such section.''.

(2) Item 31314 in the analysis of chapter 313 of title 49, United States Code, is amended to read as follows:

''31314. Transfer of amounts for State noncompliance.''.

**SEC. 103. SAFETY FITNESS OF OWNERS AND OPERATORS.**

Section 31144(b)(1) of title 49, United States Code, is amended by inserting the following before the period at the end of that paragraph: '', including a requirement that no owner or operator that begins commercial motor vehicle operations after the date of enactment of this section will be determined to be fit unless such owner or operator has attended a program for the education of owners and operators that covers, at a minimum, safety, size and weight, and financial responsibility regulations administered by the Secretary. The Secretary shall assess a fee to defray the cost of the program. The Secretary may use third parties to provide the education program.''.

**SEC. 104. REDISTRIBUTION OF UNUSED FEDERAL-AID OBLIGATION AUTHORITY.**

Section 1102(d) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by inserting at the end the following: '', except that, beginning in fiscal year 2001 through fiscal year 2003, no redistribution shall be made to a State that fails to reduce the number of fatalities in a year resulting from commercial motor vehicle crashes by at least 5 percent, based on the most recent year for which such data are available compared to the previous year. For purposes of this section 'commercial motor vehicle' has the meaning specified in section 31301 of title 49, United States Code.''.

**SEC. 105. ON-BOARD RECORDERS.**

(a) FEDERAL REGULATIONS.—The Secretary of Transportation, after notice and opportunity for comment, shall issue regulations requiring, as appropriate, the installation and use of on-board recorders or other technologies on commercial motor vehicles to manage the hours of service of drivers.

(b) DEFINITIONS.—In this section ''commercial motor vehicle'' has the meaning specified in section 31132 of title 49, United States Code.

(c) DEADLINES.—The regulations required under subsection (a) of this section shall be

developed pursuant to a rulemaking proceeding initiated within 120 days after enactment of this section and shall be issued not later than 2 years after the date of enactment.

**SEC. 106. DRIVER COMPENSATION AND SAFETY STUDY.**

(a) STUDY.—The Secretary of Transportation shall conduct a study to identify methods used to compensate drivers of commercial motor vehicles, examine how different methods may affect safety and compliance with Federal and State motor carrier safety requirements, including hours of service regulations, and identify ways safety could be improved through changes in driver compensation. Such study should include an examination of compensation incentives which could improve safety and compliance with safety regulations.

(b) CONSULTATION.—In carrying out the study, the Secretary shall consult with private and for-hire motor carriers, independent owner operators, organized labor, drivers, safety organizations, and State and local governments.

(c) REPORT.—Not later than 3 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the results of the study with any recommendations the Secretary determines appropriate as a result of the study.

(d) AVAILABILITY OF AMOUNTS.—$250,000 per fiscal year for fiscal years 2001 through 2003 are made available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to carry out this section.

(e) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are available for obligation.

**SEC. 107. PUBLIC INFORMATION AND EDUCATION.**

The Secretary of Transportation shall expend from administrative funds deducted under section 104(a) of title 23, United States Code, not more than $500,000 for each fiscal year, beginning in fiscal year 2001, to carry out public information and education programs to prevent crashes involving commercial motor vehicles. The Secretary shall make grants to at least 3 entities from among States, local governments, law enforcement organizations, private sector entities, nonprofit organizations, or commercial motor vehicle driver organizations to develop and implement programs to discourage drivers of commercial motor vehicles and drivers of passenger vehicles and motor carriers from taking safety risks. Such programs may be based on methods used in other public safety campaigns to improve driver performance.

**SEC. 108. PERIODIC REFILING OF MOTOR CARRIER IDENTIFICATION REPORTS.**

(a) FEDERAL REGULATIONS.—The Secretary of Transportation shall amend section 385.21 of title 49, Code of Federal Regulations, to require periodic updating of the Motor Carrier Identification Report, Form MCS–150, by each motor carrier conducting operations in interstate or foreign commerce.

(b) AVAILABILITY OF AMOUNTS.—$5,500,000 per year, for fiscal years 2001 through 2003, are made available from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation to carry out this section.

(c) ADMINISTRATIVE COSTS.—The Secretary may use, for the administration of this section, amounts made available under subsection (b) of this section for each of fiscal years 2001 through 2003.

(d) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are available for obligation.

**SEC. 109. AIDING AND ABETTING.**

(a) Chapter 5 of title 49, United States Code, is amended by inserting the following after section 526:

**"§ 527. Aiding and abetting**

''A person who knowingly aids, abets, counsels, commands, induces, or procures a violation of a regulation or order issued by the Secretary of Transportation under chapter 311 or section 31502 of this title shall be subject to civil and criminal penalties under this chapter to the same extent as the motor carrier or driver who commits a violation.''.

(b) The analysis of chapter 5 of title 49, United States Code, is amended by adding the following at the end:

''527. Aiding and abetting.''.

**SEC. 110. IMMINENT HAZARD.**

Section 521(b)(5) of title 49, United States Code, is amended by revising subparagraph (B) to read as follows:

''(B) In this paragraph 'imminent hazard' means any violation, or series of violations, of the statutes or regulations specified in subparagraph (A) of this paragraph that could result in a highway crash if not discontinued within 24 hours.''.

**SEC. 111. INNOVATIVE TRAFFIC LAW PILOT PROGRAM.**

(a) PILOT PROGRAM.—The Secretary of Transportation shall carry out a pilot program in cooperation with 1 or more States to develop innovative methods of improving compliance with traffic laws, including those pertaining to highway-rail grade crossings. Such methods may include the use of photography and other imaging technologies.

(b) REPORT.—Not later than 3 years after the start of the pilot program, the Secretary shall transmit to Congress a report on the results of the pilot program, together with any recommendations as the Secretary determines appropriate.

(c) AVAILABILITY OF AMOUNTS.—$500,000 per year, for fiscal years 2001 through 2003, are made available from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation to carry out this section.

(d) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are made available for obligation.

**SEC. 112. RESEARCH ON HEAVY VEHICLE SAFETY AND DRIVER PERFORMANCE.**

(a) RESEARCH ON HEAVY VEHICLE SAFETY AND DRIVER PERFORMANCE.—The Secretary, through the National Highway Traffic Safety Administration, shall conduct research on heavy vehicle safety, including measures to improve braking and stability, measures to improve vehicle compatibility in crashes between heavier and lighter vehicles, and measures to improve the performance of motor vehicle drivers.

(b) AVAILABILITY OF AMOUNTS.—$5,000,000 per year, for fiscal years 2001 through 2003, are made available from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation to carry out this section.

(c) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are made available for obligation.

**SEC. 113. IMPROVED DATA ANALYSIS SYSTEM.**

(a) IN GENERAL.—The Secretary of Transportation shall carry out a program, in cooperation with the States, to improve the collection and analysis of data on crashes involving commercial vehicles.

(b) PROGRAM ADMINISTRATION.—The Secretary shall administer the program through the National Highway Traffic Safety Administration, which shall be responsible for entering into agreements with the States to collect data, train State employees to assure the quality and uniformity of the data, and report the data by electronic means to a central data repository.

(c) PROGRAM DEVELOPMENT.—The National Highway Traffic Safety Administration and the Federal Highway Administration shall develop a data program in cooperation with the States, motor carriers, and other data users to determine data needs; develop data definitions to assure high-quality, compatible data; and create an accessible database that will improve commercial vehicle safety. The program should also incorporate driver citation and conviction information into the data system. Emphasis should also be placed on highway and traffic data.

(d) USE OF DATA.—The National Highway Traffic Safety Administration shall be responsible for integrating the data; generating reports from the data; and making the database available electronically to the Federal Highway Administration, the States, motor carriers, and other interested parties for problem identification, program evaluation, planning, and other safety-related activities.

(e) REPORT.—Not later than 3 years after the start of the improved data program, the Secretary shall transmit to Congress a report on the program, together with any recommendations as the Secretary determines appropriate.

(f) AVAILABILITY OF AMOUNTS.—Of the amounts made available under section 31107 of title 49, United States Code, $10,000,000 per year, for fiscal years 2001 through 2003, may be used by the Secretary of Transportation to carry out this section.

(g) CONTRACT AUTHORITY; DATE AVAILABLE FOR OBLIGATION.—The amounts made available by this section from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section shall be available for obligation on October 1, or as soon thereafter as practicable, of the fiscal year for which they are made available for obligation.

**SEC. 114. AUTHORIZATIONS—FISCAL YEARS 2001 THROUGH 2003.**

(a) GRANTS.—Section 31104(a) of title 49, United States Code, is amended by revising paragraphs (4) through (6) to read as follows:

''(4) Not more than $125,500,000 for fiscal year 2001.

''(5) Not more than $130,500,000 for fiscal year 2002.

''(6) Not more than $135,500,000 for fiscal year 2003.''.

(b) INFORMATION SYSTEMS.—Section 31107(a) of title 49, United States Code, is amended by—

(1) striking ''and'' in paragraph (2); and

(2) revising paragraphs (3) and (4) to read as follows:

''(3) $36,500,000 for each of fiscal years 2001 and 2002; and

''(4) $39,500,000 for fiscal year 2003.''.

**TITLE II—HIGHWAY-RAIL GRADE CROSSING SAFETY**

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''Highway-Rail Grade Crossing Safety Act of 1999''.

**SEC. 202. EMERGENCY NOTIFICATION OF GRADE CROSSING PROBLEMS.**

Section 20152 of title 49, United States Code, is amended to read as follows:

**''§ 20152. Emergency notification of grade crossing problems**

''(a) PROGRAM.—(1) The Secretary of Transportation shall promote the establishment of emergency notification systems utilizing toll-free telephone numbers that the public can use to convey to railroad carriers, either directly or through public safety personnel, information about malfunctions of automated warning devices or other safety problems at highway-rail grade crossings.

''(2) To assist in encouraging widespread use of such systems, the Secretary may provide technical assistance and enter into cooperative agreements. Such assistance shall include appropriate emphasis on the public safety needs associated with operation of small railroads.

''(b) REPORT.—Not later than 24 months following enactment of the Highway-Rail Grade Crossing Safety Act of 1999, the Secretary shall report to Congress the status of such emergency notification systems, together with any recommendations for further legislation that the Secretary considers appropriate.

''(c) CLARIFICATION OF TERM.—In this section, the use of the term 'emergency' does not alter the circumstances under which a signal employee subject to the hours of service law limitations in chapter 211 of this title may be permitted to work up to 4 additional hours in a 24-hour period when an 'emergency' under section 21104(c) of this title exists and the work of that employee is related to the emergency.''.

**SEC. 203. VIOLATION OF GRADE CROSSING SIGNALS.**

(a) IN GENERAL.—Section 20151 of title 49, United States Code, is amended—

(1) by amending the section heading to read as follows:

**''§ 20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals'';**

(2) in subsection (a)—

(A) by striking ''and vandalism affecting railroad safety'' and inserting '', vandalism affecting railroad safety, and violations of highway-rail grade crossing signals'';

(B) by inserting '', concerning trespassing and vandalism,'' after ''such evaluation and review''; and

(C) by inserting ''The second such evaluation and review, concerning violations of highway-rail grade crossing signals, shall be completed not later than 1 year after the date of enactment of the Highway-Rail Grade Crossing Safety Act of 1999'' after ''November 2, 1994.'';

(3) in the subsection heading of subsection (b), by inserting ''FOR TRESPASSING AND VANDALISM PREVENTION'' after ''OUTREACH PROGRAM'';

(4) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting ''(1)'' after ''MODEL LEGISLATION.—''; and

(C) by adding at the end the following new paragraph:

''(2) Not later than 2 years after the date of enactment of the Highway-Rail Grade Crossing Safety Act of 1999, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signals.''; and

(5) by adding at the end the following new subsection:

''(d) DEFINITION.—In this section 'violation of highway-rail grade crossing signals' includes any action by a motor vehicle operator, unless directed by an authorized safety office—

''(1) to drive around or through a grade crossing gate in a position intended to block passage over railroad tracks;

''(2) to drive through a flashing grade crossing signal;

''(3) to drive through a grade crossing with passive warning signs without determining that the grade crossing could be safely crossed before any train arrives; and

''(4) in the vicinity of a grade crossing, that creates a hazard of an accident involving injury or property damage at the grade crossing.''.

(b) CONFORMING AMENDMENT.—The item relating to section 20151 in the table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended to read as follows:

''20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals.''.

**SEC. 204. NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.**

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following:

**''§ 20154. National highway-rail crossing inventory**

''(a) MANDATORY INITIAL REPORTING OF CROSSING INFORMATION.—No later than September 30, 2001, each railroad carrier shall—

''(1) report to the Secretary of Transportation certain information, as specified by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail crossing through which the carrier operates; or

''(2) otherwise ensure that the information has been reported to the Secretary by that date.

''(b) MANDATORY PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning no later than September 30, 2003, and not less often than September 30 of every third year thereafter, or as otherwise specified by the Secretary of Transportation by rule or order issued after notice and opportunity for public comment or by guidelines, each railroad carrier shall—

''(1) report to the Secretary certain current information, as specified by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail grade crossing through which it operates; or

''(2) otherwise ensure that the information has been reported to the Secretary by that date.

''(c) DEFINITIONS.—In this section—

''(1) 'highway-rail crossing' means a location within a State where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks either at grade or grade separated; and

''(2) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 201 of title 49, United States Code, is amended by adding after item 20153 the following:

''20154. National highway-rail crossing inventory.''.

(c) AMENDMENT.—Section 130 of title 23, United States Code, is amended—

(1) by amending the section heading to read as follows:

**''§ 130. Highway-rail crossings'';**

and

(2) by inserting the following new subsection at the end:

''(k) NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.—

''(1) MANDATORY INITIAL REPORTING OF CROSSING INFORMATION.—No later than September 30, 2001, each State shall—

''(A) report to the Secretary of Transportation certain information, as specified by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail crossing located within its borders; or

''(B) otherwise ensure that the information has been reported to the Secretary by that date.

''(2) MANDATORY PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning no later than September 30, 2003, and not less often than by September 30, of every third year thereafter, or as otherwise specified by the Secretary of Transportation by rule or order issued after notice and opportunity for public comment or by guidelines, each State shall—

''(A) report to the Secretary certain current information, as determined by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail crossing located within its borders; or

''(B) otherwise ensure that the information has been reported to the Secretary by that date.

''(3) DEFINITIONS.—In this subsection—

''(A) 'highway-rail crossing' means a location where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks either at grade or grade separated; and

''(B) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.''.

(d) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 1 of title 23, United States Code, is amended by striking the existing item for section 130 and inserting the following:

''130. Highway-rail crossings.''.

(e) CIVIL PENALTIES.—(1) Section 21301(a)(1) of title 49, United States Code, is amended—

(A) by striking the period at the end of the first sentence and inserting ''or with section 20154 of this title.''; and

(B) in the second sentence, by inserting ''or violating section 20154'' between ''chapter 201'' and ''is liable''.

(2) Section 21301(a)(2) of title 49, United States Code, is amended by inserting after the first sentence the following: ''The Secretary shall subject a person to a civil penalty for a violation of section 20154 of this title.''.

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By Mr. KYL (for himself and Mr. MCCAIN):

S. 1560. A bill to establish the Shivwits Plateau National Conservation Area; to the Committee on Energy and Natural Resources

SHIVWITS PLATEAU NATIONAL CONSERVATION AREA ESTABLISHMENT ACT

Mr. KYL. Mr. President, I rise today along with my colleague Senator MCCAIN to introduce legislation creating a national conservation area on

the Shivwits Plateau/Parashant Canyon area of northwest Arizona. I am introducing this legislation to conserve, protect, and enhance for the benefit of present and future generations the existing landscapes, native wildlife and vegetation as well as the prehistoric, historic, scenic, and traditional human values of the area. This is a bill about the future, and I think it is important that we recognize the unique value of this land and its link to our past.

I have personally toured this area and was impressed with its vast landscapes and scenic vistas. I came away with the conviction that the area deserves additional protective status. The area is remote, yet it supports a few human activities, such as ranching, hunting, sightseeing, camping and hiking. I believe those uses can continue without threatening the natural environment or any historic or prehistoric artifacts that may be found in the area.

Designation of these lands as a national conservation area will serve these goals by increasing attention to and interest in the area by both the public and the federal government. By spotlighting this area, the Bureau of Land Management will be compelled, and empowered, to increase the monetary and personnel resources allocated to this area, and better focus its management on preserving and protecting the conservation area's unique values.

This bill also requires the BLM to develop and carry out forest-restoration projects on both ponderosa pine and pinon-juniper forests within the conservation area. The goal of these projects will be to restore our forests to their pre-settlement conditions. The forest-health crisis in our southwestern forests is acute, and efforts are currently underway by the BLM at Mount Trumbull to address this problem. This legislation builds on those efforts.

Designation as a national conservation area may also result in the limiting of some future human activities like mining. There are no current threats to the area, so existing traditional human uses can and should be allowed to continue. In this case, protecting the environment and continuing existing uses are not mutually exclusive. This bill preserves both the land and the traditional lifestyle of the area.

Proposals have been made to designate this area as a national monument. Such an action, however, would be done by presidential fiat under the Antiquities Act—that would subvert the public process. We do not want a repeat of the stealthy, election year political maneuver that resulted in the creation of the Escalante/Grand Staircase National Monument in 1996. The people of Arizona and Utah, and their elected representatives, deserve better. We must have a say in this process, including the ability to meaningfully review and comment upon any proposal to change the management of the area. It is only fair that the people who would be most affected by such a designation have that opportunity. I am addressing the need for local input into this process by introduction of this bill. The first step in seeking public input is through the legislative process itself. The legislative process will ensure that the public has a voice. The next step is the section of the bill creating an advisory committee of interested parties to assist the BLM in the land-planning process.

National monument status for this area would also forever preclude any type of mining activity. This would be a totally irresponsible action. Let me stress that at this time there are no active mining activities, nor does it appear that any are planned for the foreseeable future within the proposed conservation area. However, we do not know for certain what mineral deposits may be located in the area, or in what quantity. We do know that there are some uranium and copper deposits. The nation does not currently need these resources, but prudence would dictate that we not lock up these minerals with no possibility for future extraction. While we appear to have adequate uranium resources for current needs, policy or conditions may change and our national interest may be served by allowing them to be extracted in the future.

This legislation strikes a balance between the desire to preserve the land in its present state, and potential future national needs. Under the bill, the lands will be withdrawn from mineral entry under the 1872 mining law, but are subject to mineral leasing at the discretion of the Secretary of the Interior. This is consistent with the current status of other specially designated federal lands such as the Lake Mead and Glen Canyon National Recreation Areas. It is also consistent with the Secretary of the Interior's segregation of the area. Under the federal mineral leasing laws, the Secretary has broad discretion regarding whether to allow mining in a particular area; the amount of royalties to charge; the duration of the lease; environmental considerations; and reclamation. Thus, authorizing the Secretary to approve mineral leasing within the conservation area protects the national interest in these minerals while also preserving the environment.

Mr. President, I am proud to introduce this important piece of legislation. 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. 1560

*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 ''Shivwits Plateau National Conservation Area Establishment Act''.

**SEC. 2. PURPOSE.**

The purpose of this Act is to establish the Shivwits Plateau National Conservation Area to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the landscapes, native wildlife and vegetation, and prehistoric, historic, scenic, and traditional human values of the conservation area (including ranching, hunting, sightseeing, camping and hiking).

**SEC. 3. DEFINITIONS.**

In this Act:

(1) CONSERVATION AREA.—The term ''conservation area'' means the Shivwits Plateau National Conservation Area established by section 2.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

**SEC. 4. ESTABLISHMENT OF SHIVWITS PLATEAU NATIONAL CONSERVATION AREA, ARIZONA.**

(a) IN GENERAL.—There is established the Shivwits Plateau National Conservation Area in the State of Arizona.

(b) AREAS INCLUDED.—The Shivwits Plateau National Conservation Area shall be comprised of approximately 381,800 acres of land administered by the Secretary in Mohave County, Arizona, as generally depicted on the map entitled ''Shivwits Plateau National Conservation Area—Proposed'', numbered ____, dated ____.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the conservation area.

(2) FORCE AND EFFECT.—The map and legal description shall have the same force and effect as if included in this Act.

(3) PUBLIC AVAILABILITY.—Copies of the map and legal description shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management; and

(B) the appropriate office of the Bureau of Land Management in Arizona.

**SEC. 5. MANAGEMENT OF CONSERVATION AREA.**

(a) IN GENERAL.—The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances all of the values specified in section 2 under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this Act, and other applicable law.

(b) HUNTING AND FISHING.—The Secretary shall permit hunting and fishing in the conservation area in accordance with the laws of the State of Arizona.

(c) GRAZING.—

(1) IN GENERAL.—The Secretary shall permit the grazing of livestock in the conservation area.

(2) APPLICABLE LAW.—The Secretary shall ensure that grazing in the conservation area is conducted in accordance with all laws (including regulations) that apply to the issuance and administration of grazing leases on other land under the jurisdiction of the Bureau of Land Management.

(d) FOREST RESTORATION.—The Secretary shall develop and carry out forest restoration projects on Ponderosa Pine forests and Pinion-Juniper forests in the conservation area, with the goal of restoring the land in the conservation area to presettlement condition.

(e) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee for the conservation area, to be known as the ''Shivwits Plateau National Conservation Area Advisory Committee'', the purpose of which shall be to advise the Secretary with respect to the preparation and implementation of the management plan required by section 6.

(2) REPRESENTATION.—The advisory committee shall be comprised of 9 members appointed by the Secretary, of whom—

(A) 1 shall be a grazing permittee in good standing with the Bureau of Land Management who has maintained a grazing allotment within the boundaries of the conservation area for not less than 5 years;

(B) 1 shall be the chairperson of the Kaibab Band of Paiute Indians;

(C) 1 shall be an individual with a recognized background in ecological restoration, research, and application, to be appointed from among nominations made by Northern Arizona University;

(D) 1 shall be the Arizona State Land Commissioner;

(E) 1 shall be an Arizona State Game and Fish Commissioner;

(F) 1 shall be an official of the State of Utah (other than an elected official), to be appointed from among nominations made by the Arizona Strip Regional Planning Task Force;

(G) 1 shall be a representative of a recognized environmental organization;

(H) 1 shall be a local elected official from the State of Arizona, to be appointed from among nominations made by the Arizona Strip Regional Planning Task Force; and

(I) 1 shall be a local elected official from the State of Utah, to be appointed from among nominations made by the Arizona Strip Regional Planning Task Force.

(3) TERMS.—

(A) IN GENERAL.—A member of the advisory committee shall be appointed for a term of 3 years, except that, of the members first appointed, 3 members shall be appointed for a term of 1 year and 3 members shall be appointed for a term of 2 years.

(B) REAPPOINTMENT.—A member may be reappointed to serve on the advisory committee on expiration of the member's term.

**SEC. 6. MANAGEMENT PLAN.**

(a) EXISTING MANAGEMENT PLANS.—The Secretary shall manage the conservation area under resource management plans in effect or the date of enactment of this Act, including the Arizona Strip Resource Management Plan, the Parashant Interdisciplinary Plan, and the Mt. Trumbull Interdisciplinary Plan.

(b) FUTURE MANAGEMENT PLANS.— Future revisions of management plans for the conservation area shall be adopted in compliance with the goals and objectives of this Act.

**SEC. 7. ACQUISITION OF LAND.**

(a) IN GENERAL.—The Secretary may acquire State or private land or interests in land within the boundaries of the conservation area only by—

(1) donation;

(2) purchase with donated or appropriated funds from a willing seller; or

(3) exchange with a willing party.

(b) EXCHANGES.—

(1) IN GENERAL.—During the 2-year period beginning on the date of enactment of this Act, the Secretary shall make a diligent effort to acquire, by exchange, from willing parties all State trust lands, subsurface rights, and valid mining claims within the conservation area.

(2) INVERSE CONDEMNATION.—If an exchange requested by a property owner is not completed by the end of the period, the property owner that requested the exchange may, at any time after the end of the period—

(A) declare that the owner's State trust lands, subsurface rights, or valid mining claims within the conservation area have been taken by inverse condemnation; and

(B) seek compensation from the United States in United States district court.

(c) VALUATION OF PRIVATE PROPERTY.—

(1) IN GENERAL.—The United States shall pay the fair market value for any property acquired under this section.

(2) ASSESSMENT.—The value of the property shall be assessed as if the conservation area did not exist.

**SEC. 8. MINERAL ASSESSMENT PROGRAM AND RELATIONSHIP TO MINING LAWS.**

(a) ASSESSMENT PROGRAM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall assess the oil, gas, coal, uranium, and other mineral potential on Federal land in the conservation area.

(b) PEER REVIEW.—The mineral assessment program shall—

(1) be subject to review by the Arizona State Department of Mines and Mineral Resources; and

(2) shall not be considered to be complete until the results of the assessment are approved by the Arizona State Department of Mines and Mineral Resources.

(c) RELATION TO MINING LAWS.—Subject to valid existing rights, the public land within the conservation area is withdrawn from mineral location, entry, and patent under chapter 6 of the Revised Statutes (commonly known as the ''General Mining Law of 1872'') (30 U.S.C. section 21 et seq.).

(d) MINERAL LEASING.—The Secretary shall permit the removal of—

(1) nonleasable minerals from land or an interest in land within the national conservation area in the manner prescribed by section 10 of the Act of August 4, 1939 (43 Stat. 38); and

(2) leasable minerals from land or an interest in lands within the conservation area in accordance with the Act of February 25, 1920 (commonly known as the ''Mineral Lands Leasing Act of 1920'') (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

(e) DISPOSITION OF FUNDS FROM PERMITS AND LEASES.—

(1) RECEIPTS FROM PERMITS AND LEASES.—Receipts derived from permits and leases issued on land in the conservation area under the Act of February 25, 1920 (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), shall be disposed of as provided in the applicable Act.

(2) RECIPTS FROM DISPOSITION OF NONLEASABLE MINERALS.—Receipts from the disposition of nonleasable minerals within the conservation area shall be disposed of in the same manner as proceeds of the sale of public land.

**SEC. 9. EFFECT ON WATER RIGHTS.**

Nothing in this Act—

(1) establishes a new or implied reservation to the United States of any water or water-related right with respect to land included in the conservation area; or

(2) authorizes the appropriation of water, except in accordance with the substantive and procedural law of the State of Arizona.

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

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By Mr. ABRAHAM:

S. 1561. A bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes; to the Committee on the Judiciary.

DATE-RAPE DRUG CONTROL ACT OF 1999

Mr. ABRAHAM. Mr. President, I rise to introduce the Date Rape Drug Control Act of 1999. This legislation will address a growing epidemic in our land that is taking too many lives.

Mr. President, so-called date-rape drugs are becoming increasingly common in our nation. These drugs, so named because they are used in order to incapacitate women and make them vulnerable to sexual assault, are finding their way into nightclubs, onto campuses and into homes. They are being used by sexual predators against young—sometimes very young—women. The results are terrible and often tragic. Women victimized by drugs like gamma hydroxybutyric acid (or GHB) and Ketamine may be raped, they may become violently ill, and they may die.

Mr. President, I'd like to give just one example of the horrible consequences of drugs like GHB and Ketamine. In January of this year three young girls, none of them yet 16, were at a party given by a 25 year-old man in Woodhaven, Michigan. 15 year-old Samantha Reid drank a Mountain Dew—a soft drink—and passed out within minutes. She vomited in her sleep, and she died. Her friend, Melanie Sindone, also 15, passed out and lapsed into a coma, but has fortunately survived. The third young woman, Jessica VanWassehnova, had traces of GHB in her blood and only had a minor reaction of nausea. The three teenage boys are now facing manslaughter and felony poison charges.

These two girls had no reason to believe that they were drinking anything dangerous. But they were wrong. Their drinks had been laced with both GHB and Ketamine. Men at the party apparently put these drugs in the girls' drinks, to a tragic result.

Mr. President, this was a terrible series of events, and one that has been repeated far too many times. Our young women are being raped and killed by sexual predators using GHB and Ketamine. And that must stop.

The Date Rape Drug Control Act will provide law enforcement personnel with the tools they need to fight the date-rape epidemic. It directs that GHB and Ketamine be classified as Schedule I controlled substances, as drugs like heroin and cocaine are today. In addition, the bill authorizes additional reporting requirements that will enhance the ability of authorities to track the manufacture, distribution and dispensing of GHB and similar products. And it directs the Secretary of Health and Human Services to submit annual reports to Congress estimating the number of incidents of date-rape drug abuse that occurred during the most recent year for which data are available.

Finally, Mr. President, this bill requires the Secretary, in consultation with the Attorney General, to develop a plan for carrying out a national campaign to educate individuals about the dangers of date-rape drugs, the fact that they are controlled substances and the penalties involved for violating the Controlled Substances Act, how to recognize symptoms indicating that an individual may be a victim of date-rape drugs, and how to respond when an individual has these symptoms.

The last provision is crucial, Mr. President, because those who use date-rape drugs depend on stealth in praying upon their victims. Young women who are on the look-out, who know what to look for and can recognize the signs of date-rape drug use will be at much lower risk of falling victim to GHB or Ketamine.

It is time to act, Mr. President, to save young people, and young women in particular, from these deadly drugs and from the predators who use them. I ask my colleagues to give this important legislation their full support.

Mr. President, I ask unanimous consent that the text of the Date-Rape Drug Control Act of 1999 and a section-by-section analysis be printed in the RECORD.

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

S. 1561

*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 ''Date-Rape Drug Control Act of 1999''.

**SEC. 2. FINDINGS.**

Congress finds as follows:

(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases especially at night clubs and parties.

(2) A behavioral depressant and a hypnotic, gamma hydroxybutyric acid (''GHB'') is being used in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug's ingestion since it is so typically taken with an ever-changing array of other drugs and especially alcohol which potentiates its impact.

(3) GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and as impact builds are comparable to alcohol ingestion/intoxication. Thus, aggression and violence can be expected in some individuals who use such drug.

(4) If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1.4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursor chemicals is a significant and growing law enforcement problem.

(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to work, drive a car, hold their children or live a normal life.

**SEC. 3. ADDITION OF GAMMA HYDROXYBUTYRIC ACID AND KETAMINE TO SCHEDULES OF CONTROLLED SUBSTANCES; GAMMA BUTYROLACTONE AS ADDITIONAL LIST I CHEMICAL.**

(a) ADDITION TO SCHEDULE I.—

(1) IN GENERAL.—Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end of schedule I the following:

''(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substance having a depressant effect on the central nervous system, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

''(1) Gamma hydroxybutyric acid.''.

(2) SECURITY OF FACILITIES.—For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, gamma hydroxybutyric acid and its salts, isomers, and salts of isomers manufactured, distributed, or possessed in accordance with an exemption approved under section 505(i) of the Federal Food, Drug, and Cosmetic Act shall be treated as a controlled substance in schedule III under section 202(c) of the Controlled Substances Act.

(b) ADDITION TO SCHEDULE III.—Schedule III under section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended in (b)—

(1) by redesignating (4) through (10) as (6) through (12), respectively; and

(2) by redesignating (3) as (4);

(3) by inserting after (2) the following:

''(3) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act.''; and

(4) by inserting after (4) (as so redesignated) the following:

''(5) Ketamine and its salts, isomers, and salts of isomers.''.

(c) ADDITIONAL LIST I CHEMICAL.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by redesignating subparagraph (X) as subparagraph (Y); and

(2) by inserting after subparagraph (W) the following subparagraph:

''(X) Gamma butyrolactone.''.

(d) RULE OF CONSTRUCTION REGARDING CONTROLLED SUBSTANCE ANALOGUES.—Section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraph (C)'';

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) that the chemical is a controlled substance analogue.''.

(e) PENALTIES REGARDING SCHEDULE I.—

(1) IN GENERAL.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended in the first sentence by inserting after ''schedule I or II,'' the following: ''gamma hydroxybutyric acid in schedule III,''.

(2) CONFORMING AMENDMENT.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by inserting ''(other than gamma hydroxybutyric acid)'' after ''schedule III''.

(f) DISTRIBUTION WITH INTENT TO COMMIT CRIME OF VIOLENCE.—Section 401(b)(7)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(7)(A)) is amended by inserting ''or controlled substance analogue'' after ''distributing a controlled substance''.

**SEC. 4. AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS FOR GAMMA HYDROXYBUTYRIC PRODUCTS IN SCHEDULE III.**

Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by adding at the end the following:

''(h) In the case of a drug product containing gamma hydroxybutyric acid for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act, the Attorney General may, in addition to any other requirements that apply under this section with respect to such a drug product, establish any of the following as reporting requirements:

''(1) That every person who is registered as a manufacturer of bulk or dosage form, as a packager, repackager, labeler, relabeler, or distributor shall report acquisition and distribution transactions quarterly, not later than the 15th day of the month succeeding the quarter for which the report is submitted, and annually report end-of-year inventories.

''(2) That all annual inventory reports shall be filed no later than January 15 of the year following that for which the report is submitted and include data on the stocks of the drug product, drug substance, bulk drug, and dosage forms on hand as of the close of business December 31, indicating whether materials reported are in storage or in process of manufacturing.

''(3) That every person who is registered as a manufacturer of bulk or dosage form shall report all manufacturing transactions both inventory increases, including purchases, transfers, and returns, and reductions from inventory, including sales, transfers, theft, destruction, and seizure, and shall provide data on material manufactured, manufactured from other material, use in manufacturing other material, and use in manufacturing dosage forms.

''(4) That all reports under this section must include the registered person's registration number as well as the registration numbers, names, and other identifying information of vendors, suppliers, and customers, sufficient to allow the Attorney General to track the receipt and distribution of the drug.

''(5) That each dispensing practitioner shall maintain for each prescription the name of the prescribing practitioner, the prescribing practitioner's Federal and State registration numbers, with the expiration dates of these registrations, verification that the prescribing practitioner possesses the appropriate registration to prescribe this controlled substance, the patient's name and address, the name of the patient's insurance provider and documentation by a medical practitioner licensed and registered to prescribe the drug of the patient's medical need for the drug. Such information shall be available for inspection and copying by the Attorney General.

''(6) That section 310(b)(3) (relating to mail order reporting) applies with respect to gamma hydroxybutyric acid to the same extent and in the same manner as such section applies with respect to the chemicals and drug products specified in subparagraph (A)(i) of such section.''.

**SEC. 5. DEVELOPMENT OF FORENSIC FIELD TESTS FOR GAMMA HYDROXYBUTYRIC ACID.**

The Attorney General shall make a grant for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hydroxybutyric acid and related substances.

**SEC. 6. ANNUAL REPORT REGARDING DATE-RAPE DRUGS; NATIONAL AWARENESS CAMPAIGN.**

(a) ANNUAL REPORT.—The Secretary of Health and Human Services (in this section

referred to as the ''Secretary'') shall periodically submit to Congress reports each of which provides an estimate of the number of incidents of the abuse of date-rape drugs (as defined in subsection (c)) that occurred during the most recent one-year period for which data are available. The first such report shall be submitted not later than January 15, 2000, and subsequent reports shall be submitted annually thereafter.

(b) NATIONAL AWARENESS CAMPAIGN.—

(1) DEVELOPMENT OF PLAN; RECOMMENDATIONS OF ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall develop a plan for carrying out a national campaign to educate individuals described in subparagraph (B) on the following:

(i) The dangers of date-rape drugs.

(ii) The applicability of the Controlled Substances Act to such drugs, including penalties under such Act.

(iii) Recognizing the symptoms that indicate an individual may be a victim of such drugs, including symptoms with respect to sexual assault.

(iv) Appropriately responding when an individual has such symptoms.

(B) INTENDED POPULATION.—The individuals referred to in subparagraph (A) are young adults, youths, law enforcement personnel, educators, school nurses, counselors of rape victims, and emergency room personnel in hospitals.

(C) ADVISORY COMMITTEE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish an advisory committee to make recommendations to the Secretary regarding the plan under subparagraph (A). The committee shall be composed of individuals who collectively possess expertise on the effects of date-rape drugs and on detecting and controlling the drugs.

(2) IMPLEMENTATION OF PLAN.—Not later than 180 days after the date on which the advisory committee under paragraph (1) is established, the Secretary, in consultation with the Attorney General, shall commence carrying out the national campaign under such paragraph in accordance with the plan developed under such paragraph. The campaign may be carried out directly by the Secretary and through grants and contracts.

(3) EVALUATION BY GENERAL ACCOUNTING OFFICE.—Not later than two years after the date on which the national campaign under paragraph (1) is commenced, the Comptroller General of the United States shall submit to Congress an evaluation of the effects with respect to date-rape drugs of the national campaign.

(c) DEFINITION.—For purposes of this section, the term ''date-rape drugs'' means gamma hydroxybutyric acid and its salts, isomers, and salts of isomers and such other drugs or substances as the Secretary, after consultation with the Attorney General, determines to be appropriate.

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DATE-RAPE DRUG CONTROL ACT OF 1999—SECTION-BY-SECTION ANALYSIS

**Section 1. Short Title.**

''Date-Rape Drug Control Act of 1999''

**Sec. 2. Findings.**

This section sets out congressional findings regarding the use of gamma hydroxybutyric acid, ketamine, and gamma butyrolactone to facilitate sexual and other assaults.

**Sec. 3. Addition of Gamma Hydroxybutyric Acid and Ketamine (GHB) to Schedules of Controlled Substances; Gamma Butyrolactone as Additional List 1 Chemical.**

This section amends section 202(c) the Controlled Substances Act to add gamma hydroxybutric acid and its salts to the list of Schedule I drugs, unless these substances are specifically excepted or listed in another schedule.

For purposes of requirements in the Controlled Substances Act relating to the physical security of the facilities of registered manufacturers, gamma hydroxybutyric acid and its salts, isomers, and salts of isomers which are manufactured, distributed or possessed in accordance with an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (i.e., an investigational new drug exemption or ''IND'') shall be treated as a controlled substance in Schedule III of the Controlled Substances Act (as opposed to Schedule I).

This section also amends section 202(c) of the Controlled Substances Act to add Ketamine and its salts, isomers, and salts of isomer to the list of Schedule III drugs and section 102(34) of the Controlled Substances Act to add gamma butyrolactone (GBL) to the list of List I chemicals.

Further, under this section, gamma hydroxbutyric acid and its salts, isomers, and salts of isomers which are contained in a drug that has been approved by the Food and Drug Administration (FDA) is scheduled under Schedule III. However, the section imposes Schedule I penalties (as opposed to the penalties that would apply under Schedule III).

This section amends section 102(32) of the Controlled Substances Act to include that the designation of gamma butyrolactone or any other chemical as a ''List I'' or a ''List II'' precursor chemical does not preclude a finding that the chemical is a controlled substance analogue.

Section 401(b)(7)(A) of the Controlled Substances Act is amended by including penalties for distribution of a ''controlled substance analogue'' with the intent to commit a crime of violence (including rape).

**Sec. 4. Authority for Additional Reporting Requirements for Gamma Hydroxybutyric Products in Schedule III.**

This section amends section 307 of the Controlled Substances Act for approved drugs containing gamma hydroxybutyric acid to permit the Attorney General to establish additional reporting requirements that may enhance the ability of authorities to track the manufacturing, distribution, and dispensing of these drugs, including mail order distribution and dispensing.

**Sec. 5. Development of Forensic Field Tests for Gamma Hydroxybutric Acid.**

This section requires the Attorney General to make a grant for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hdroxybutric acid and related substances.

**Sec. 6. Annual Report Regarding Date-rape Drugs; National Awareness Campaign.**

This section requires the Secretary of Health and Human Services to submit annual reports to Congress estimating the number of incidents of date-rape drug abuse that occurred during the most recent year for which data are available. The first report is due January 15, 2000.

This section also requires the Secretary, in consultation with the Attorney General, to develop a plan for carrying out a national campaign to educate individuals about the dangers of date-rape drugs, the fact that they are controlled substances and the penalties involved for violating the Controlled Substances Act, how to recognize the symptoms indicating an individual may be a victim of date-rape drugs, and how to appropriately respond when an individual has such symptoms. This campaign is directly not only at young adults and youths, but also at law enforcement personnel, educator, school nurses, counselors of rape victims, and hospital emergency room personnel.

To advise the Secretary on the plan, this section directs the Secretary to establish an advisory committee composed of individuals possessing expertise on the effects of date-rape drugs and on detecting and controlling drugs. The advisory committee must be established within 180 days after the enactment of this legislation. Within 180 days after the advisory committee is established, the Secretary must implement the campaign.

No later than two years after the campaign begins, the Comptroller General is directed to submit to Congress an evaluation of its effectiveness and recommendations for improving its effectiveness, if appropriate.

This section defines ''date-rape drugs'' as GHB and its salts and such other drugs as the Secretary, after consultation with the Attorney General, determines to be appropriate.

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By Mr. NICKLES:

S. 1562. A bill to amend the Internal Revenue Code of 1986 to classify certain franchise operation property as 15-year depreciable property; to the Committee on Finance.

SMALL BUSINESS FRANCHISE PROPERTY RECOVERY ACT OF 1999

Mr. NICKLES. Mr. President, today I am pleased to introduce the ''Small Business Franchise Property Recovery Act of 1999.'' This bill would amend the Internal Revenue Code of 1986 to classify certain franchise operation property as 15-year depreciable property.

As my colleagues may recall, the recovery period for real estate property and building improvements was generally extended to 39 years in 1984 primarily for revenue reasons. Since that time, growing concerns have been voiced that having such an extended recovery period is neither justifiable nor based on sound tax policy. In many cases, 39 years is far longer than the normal use life of the property. Congress has directed the Treasury Department by early next year to provide us with a study and recommendations for overhauling the tax code's depreciation provisions. I look forward to receiving the Treasury's report, but in the interim, I do not believe we should defer addressing obvious depreciation inequities. Therefore, I am offering this bill now to shorten the depreciation period for real property and buildings for all franchisees from 39 years to 15 years.

Mr. President, franchisees-such as those who operate quick-service food restaurants generally enter into a franchise agreement with the franchisor that terminates after a set period of time (e.g., 15 or 20 years). There typically is no guaranteed right to renew the agreement. Franchisees often must undertake major renovations and improvements to the property at least once during the franchisee period.

Under current law, the real estate and buildings owned by franchisees generally must be written off over 39 years. This extended depreciation period bears no relation to economic reality and is roughly double the normal use life of the franchise property.

The ''Small Business Property Recovery Act of 1999'' would reduce the 39

year recovery period for such franchisee property to 15 years. This shorter period, which tracks the convenience store precedent, would essentially reflect the property's use life. This would be fairer to the small and closely held businesses that operate quick-service restaurants and other franchises. It also would enable them to free-up more capital to expand their businesses and create more jobs.

I urge my colleagues on both sides of the aisle to cosponsor this bill. I would also note that Representative RAMSTAD recently has introduced a similar bill, H.R. 2451, in the House. I look forward to working with him and others to help secure the passage of this legislation.

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. 1562

*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 ''Small Business Franchise Property Recovery Act of 1999''.

**SEC. 2. CLASS LIFE FOR FRANCHISE OPERATIONS.**

(a) IN GENERAL.—Section 168(e)(3)(E) of the Internal Revenue Code of 1996 (classifying certain property as 15-year property) is amended by striking ''and'' at the end of the clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any section 1250 property which is a franchise operation subject to section 1253.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) of such Code is amended by inserting after the item relating to subparagraph (E)(iii) in the table contained therein the following new item:

''(E)(iv) ..... 15''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer may elect (in such form and manner as the Secretary of the Treasury may prescribe) to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

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By Mr. ABRAHAM (for himself, Mr. KENNEDY, and Mr. HAGEL):

S. 1563. A bill to establish the Immigration Affairs Agency within the Department of Justice, and for other purposes; to the Committee on the Judiciary.

INS REFORM AND BORDER SECURITY ACT OF 1999

Mr. ABRAHAM. Mr. President, I rise to introduce the INS Reform and Border Security Act. Today, there is widespread agreement that the Immigration and Naturalization Service does not handle either its service or its law enforcement functions well. On the enforcement side, the INS has shown an inability to recruit, hire, and retain the Border Patrol agents mandated by Congress. The agency's detention policies are at best inconsistent. Its computer systems and methods for tracking and deporting criminal aliens has proven inadequate. And the list could continue. On the service side, the situation is similarly troubling. Stories of lost files, misplaced fingerprints, and broken-hearted applicants are far too common. Congressional offices are overwhelmed with the number of requests from constituents seeking help with their cases at INS. The INS is generally unable to update an individual on the status of his or her case. Any the backlogs have become so lengthy at the INS that few can anticipate action on their case, whether for citizenship or adjustment of status, within 18 months. The system is broken.

In the February 1999 Government Performance Project report, administered by the Syracuse University, the INS came in dead last among 15 federal agencies. INS received an overall grade of C-, while gathering grades of D in both management and human resources, and C in information technology. These grades were perhaps generous. A DOJ Inspector General report recently concluded that the INS ''still does not adequately manage'' its computer system and expressed concerns that much money has been wasted on an $800 million computer system.

The current structure of the INS—concentrated in District Offices around the country that combine service and enforcement functions—is a cause of a number of its problems. These offices are run by District Directors who are not required to have law enforcement backgrounds. Moreover, they can hold their posts for 15 years or more, resulting in ''fiefdoms'' that make it difficult to improve service or enforcement, or for headquarters to receive adherence from the field for policy changes. By combining the service and enforcement functions in one entity, the agency has taken on dual missions that in many ways are incompatible. Serious problems have resulted in expecting the INS to be the good service provider by day in facilitating legal immigration and naturalization, and the tough ''cop'' by night combating illegal immigration and criminal aliens. This is a point I made in my first speech as chairman of the immigration subcommittee and it remains my view today. Permitting the INS to move forward with its current structure and organization only ensures an endless recurrence of the same problems we have seen for years at the agency.

The INS Reform and Border Security Act would represent fundamental change. It would eliminate the Immigration and Naturalization Service. The legislation will create a new Immigration Affairs Agency within the Justice Department, led by an Associate Attorney General for Immigration Affairs, that will contain two separate bureaus—The Bureau of Immigration Service and Adjudication (BISA) and the Bureau of Enforcement and Border Affairs (BEBA). This will allow for concentrated effort and personnel devoted to improving their respective service and enforcement functions. Inspections, which has a combined service and enforcement function, will be a separate entity within the Immigration Affairs Agency.

The legislation would also increase accountability by creating three Senate-confirmed positions, one each for the Associate Attorney General for Immigration Affairs, the Director of the Service Bureau and the Director of the Enforcement Bureau. The bill would also create the position of Chief Financial Officer in both the Service and Enforcement bureaus, creating additional fiscal accountability.

The bill will ensure the coordination of important functions. Specifically, by ensuring that an Associate Attorney General for Immigration Affairs will be in charge, the formulation and coordination of policy between the Service and Enforcement Bureaus will take place. There is a risk that without an individual charged with policy coordination, policy anarchy could ensue.

The legislation will provide for enhanced enforcement of our immigration laws. Separating out enforcement will help ensure that enforcement is sufficiently supported and that individuals overseeing enforcement functions possess a law enforcement background. Moreover, the bill would move the Enforcement Bureau toward the best practices of the Federal Bureau of Investigation, which is considered a more effective law enforcement entity than the current INS. The FBI is successful in coordinating activities between the central office and field offices and in supporting agents in the fields, which are vital for sound law enforcement. Finally, the bill would require the addition of 1,000 more border patrol in fiscal years 2002, 2003, and 2004.

The INS Reform and Border Security Act should result in important service improvements. Separating service and enforcement will help ensure that those individuals working in the service side understand their jobs to include the fair, equitable, accurate, and courteous service. In fact, the legislation requires that all employee evaluations include the fair and equitable treatment of immigrants as a top priority. The legislation creates the Office of the Ombudsman, which will assist individuals in resolving service or case problems and identify and propose changes in the Service Bureau to improve service. The Ombudsman can appoint local representatives to resolve serious service breakdowns. In addition, the legislation models the Service Bureau's organization on the Social Security Administration by creating regional commissioners and area directors charged with service implementation. The bill would place statutory time limits on the processing of temporary visas and visas for permanent residence and seeks to ensure that services are adequately funded.

To improve the culture of employees, the bill includes a series of measures, including employee buyouts and the ability to bring in outside management executives, that are modeled on those passed by Congress in the 1998 IRS reform bill.

The legislation has already achieved a great consensus, having been endorsed by the U.S. Border Patrol Chief Patrol Agent's Association, the Federal Law Enforcement Officers Association, the American Immigration Lawyers Association, the Hebrew Immigrant Aid Society, and other organizations.

In particular, I would like to thank my cosponsors Senators KENNEDY and HAGEL for working with on this important piece of legislation. 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. 1563

*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 ''INS Reform and Border Security 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. Immigration laws of the United States defined.

TITLE I—IMMIGRATION AFFAIRS AGENCY

Sec. 101. Establishment of Immigration Affairs Agency.
Sec. 102. Establishment of the Office of the Associate Attorney General for Immigration Affairs.
Sec. 103. Establishment of Bureau of Immigration Services and Adjudications.
Sec. 104. Office of Ombudsman within the Service Bureau.
Sec. 105. Establishment of Bureau of Enforcement and Border Affairs.
Sec. 106. Exercise of authorities.
Sec. 107. Savings provisions.
Sec. 108. Transfer and allocation of appropriations and personnel.
Sec. 109. Executive Office for Immigration Review and Attorney General litigation authorities not affected.
Sec. 110. Definitions.
Sec. 111. Effective date.

TITLE II—PERSONNEL FLEXIBILITIES

Sec. 201. Improvements in personnel flexibilities.
Sec. 202. Voluntary separation incentive payments.
Sec. 203. Basis for evaluation of Immigration Affairs Agency employees.
Sec. 204. Employee training program.
Sec. 205. Effective date.

TITLE III—ADDITIONAL PROVISIONS

Sec. 301. Expedited processing of documents.
Sec. 302. Funding adjudication and naturalization services.
Sec. 303. Increase in Border Patrol agents and support personnel.

**SEC. 2. IMMIGRATION LAWS OF THE UNITED STATES DEFINED.**

In this Act, the term ''immigration laws of the United States'' means the following:

(1) The Immigration and Nationality Act.

(2) The Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(3) The Immigration and Nationality Technical Corrections Act of 1994.

(4) The Immigration Act of 1990.

(5) The Immigration Reform and Control Act of 1986.

(6) The Refugee Act of 1980.

(7) Such other statutes, Executive orders, regulations, or directives that relate to the admission to, detention in, or removal from the United States of aliens, or that otherwise relate to the status of aliens in the United States.

**TITLE I—IMMIGRATION AFFAIRS AGENCY**

**SEC. 101. ESTABLISHMENT OF IMMIGRATION AFFAIRS AGENCY.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice the Immigration Affairs Agency (in this Act referred to as the ''Agency'').

(2) COMPONENTS.—The Agency shall consist of—

(A) the Office of the Associate Attorney General for Immigration Affairs established in section 102;

(B) the Bureau of Immigration Services and Adjudications established in section 103; and

(C) the Bureau of Enforcement and Border Affairs established in section 105.

(b) ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS.—

(1) IN GENERAL.—The Agency shall be headed by an Associate Attorney General for Immigration Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION AT RATE OF PAY FOR EXECUTIVE LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Associate Attorney General for Immigration Affairs, Department of Justice.''.

(3) CONFORMING AMENDMENTS.—(A) Section 103(c) of the Immigration and Nationality Act is amended—

(i) by striking the first sentence; and

(ii) in the second sentence, by striking ''He'' and inserting ''The Associate Attorney General for Immigration Affairs''.

(B) Section 103 of such Act is amended by striking ''Commissioner'' and inserting ''Associate Attorney General for Immigration Affairs''.

(C) Section 5315 of title 5, United States Code, is amended by striking the following:

''Commissioner of Immigration and Naturalization, Department of Justice.''.

(c) REPEALS.—The following provisions of law are repealed:

(1) Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service).

(2) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(3) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district director).

(4) Section 1 of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(d) REFERENCES.—Except as otherwise provided in sections 103 and 105, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Immigration Affairs Agency.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Agency such sums as may be necessary to carry out its functions.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 102. OFFICE OF THE ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS.**

(a) POLICY AND ADMINISTRATIVE FUNCTIONS DEFINED.—In this section, the term ''immigration policy and administrative functions'' includes the following functions under the immigration laws of the United States:

(1) Inspections at ports of entry in the United States.

(2) Policy and planning formulation on immigration matters.

(3) Information technology, information resources management, and maintenance of records and databases, and the coordination of records and other information of the two bureaus within the Agency.

(4) Such other functions as involve providing resources and other support for the Bureau of Immigration Services and Adjudications (established in section 103) and the Bureau of Enforcement and Border Affairs (established in section 105).

(b) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—There is established within the Agency the Office of the Associate Attorney General for Immigration Affairs (in this title referred to as the ''Office'').

(2) GENERAL COUNSEL.—

(A) IN GENERAL.—There shall be within the Office of the Associate Attorney General for Immigration Affairs a General Counsel, who shall be appointed by the Attorney General.

(B) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''General Counsel, Immigration Affairs Agency.''.

(3) CHIEF FINANCIAL OFFICER FOR THE IMMIGRATION AFFAIRS AGENCY.—

(A) IN GENERAL.—There shall be a position of Chief Financial Officer for the Immigration Affairs Agency and this position shall be a career reserved position within the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities related to immigration policy and administrative functions. For purposes of section 902(a)(1) of such title, the Associate Attorney General for Immigration Affairs shall be deemed to be the head of the agency. The provisions of section 903 of such title (relating to Deputy Chief Financial Officers) shall also apply in the same manner as the previous sentence.

(B) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Chief Financial Officer, Immigration Affairs Agency.''.

(c) RESPONSIBILITIES OF THE OFFICE.—Under the direction of the Attorney General, the Office of the Associate Attorney General for Immigration Affairs shall be responsible for carrying out the immigration policy and administrative functions of the Agency.

(d) DELEGATION OF AUTHORITY BY THE ATTORNEY GENERAL.—All immigration policy and administrative functions vested by statute in, or exercised by—

(1) the Attorney General, or

(2) the Commissioner of Immigration and Naturalization, the Immigration and Naturalization Service, or officers, employees, or components thereof,

immediately prior to the effective date of this title shall be exercised by the Attorney General through the Associate Attorney General for Immigration Affairs.

(e) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Commissioner of Immigration and Naturalization or any other officer or employee of the Immigration and Naturalization Service (insofar as such references refer to any immigration policy and administrative function) shall be deemed to refer to the Associate Attorney General for Immigration Affairs; or

(2) the Immigration and Naturalization Service (insofar as such references refer to any immigration policy and administrative function) shall be deemed to refer to the Office of the Associate Attorney General for Immigration Affairs.

**SEC. 103. ESTABLISHMENT OF BUREAU OF IMMIGRATION SERVICES AND ADJUDICATIONS.**

(a) IMMIGRATION ADJUDICATION AND SERVICE FUNCTIONS DEFINED.—In this section, the term ''immigration adjudication and service functions'' means the following functions under the immigration laws of the United States:

(1) Adjudications of nonimmigrant and immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Determinations concerning custody, parole, and conditions of parole regarding applicants for asylum detained at ports of entry who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, and responsibility for the detention of any such applicant with respect to whom a determination has been made that detention is required.

(5) Adjudications performed at Service centers.

(6) All other adjudications under the immigration laws of the United States.

(b) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There is established within the Agency a bureau to be known as the Bureau of Immigration Services and Adjudications (in this section referred to as the ''Service Bureau'').

(2) SENSE OF CONGRESS.—It is the sense of Congress that the structure of the Service Bureau should be based on the organization of the Social Security Administration.

(3) DIRECTOR.—The head of the Service Bureau shall be the Director of Immigration Services and Adjudications who—

(A) shall be appointed by the President, by and with the advice and consent of the Senate; and

(B) shall report directly to the Associate Attorney General for Immigration Affairs.

(4) COMPENSATION AT LEVEL IV OF EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Director of Immigration Services and Adjudications, Immigration Affairs Agency.''.

(c) RESPONSIBILITIES OF THE BUREAU.—Subject to the policy guidance of the Associate Attorney General for Immigration Affairs, the Service Bureau shall be responsible for carrying out the immigration adjudication and service functions of the Agency.

(d) DELEGATION OF AUTHORITY BY THE ATTORNEY GENERAL.—All immigration adjudication and service functions vested by statute in, or exercised by—

(1) the Attorney General, or

(2) the Commissioner of Immigration and Naturalization, the Immigration and Naturalization Service, or officers, employees, or components thereof,

immediately prior to the effective date of this title shall be exercised by the Attorney General through the Associate Attorney General for Immigration Affairs and the Director of the Service Bureau.

(e) CHIEF FINANCIAL OFFICER FOR THE BUREAU OF IMMIGRATION SERVICES AND ADJUDICATIONS.—

(1) IN GENERAL.—There shall be a position of Chief Financial Officer for the Bureau of Immigration Services and Adjudications and this position shall be a career reserved position within the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Service Bureau. For purposes of section 902(a)(1) of such title, the Director of the Service Bureau shall be deemed to be the head of the agency. The provisions of section 903 of such title (relating to Deputy Chief Financial Officers) shall also apply to such Bureau in the same manner as the previous sentence applies to such Bureau.

(2) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Chief Financial Officer, Bureau of Immigration Services and Adjudications of the Immigration Affairs Agency.''.

(f) REGIONAL COMMISSIONERS.—There shall be within the Service Bureau Regional Commissioners who shall be responsible for carrying out the functions of the Bureau within specified geographic regions. The Director of the Service Bureau shall establish the number of Regional Commissioners based on workload and economies of scale.

(g) AREA DIRECTORS.—The Director of the Service Bureau shall appoint Area Directors who shall report to the Regional Commissioner in his or her region. In States with large populations there may be more than one Area Director. Each Area Director is in charge of field offices within his or her area.

(h) FIELD OFFICE MANAGERS.—A Field Office Manager is in charge of each field office. The field offices, located in cities and other places around the country, are the Service Bureau's main source of contact with the public. Congress encourages the development of telephone service centers to improve service and efficiency, which may or may not be located in the same location as service centers under subsection (k).

(i) TERM OF SERVICE.—No Field Office Manager or Area Director may hold his or her post in a single geographic region for more than 6 years without a break of at least 2 years. The Attorney General may waive this subsection for extraordinary reasons.

(j) SERVICE CENTERS.—In addition, there shall be Service Centers, located depending on the workloads and economies of scale. The head of each Service Center shall report to the Regional Commissioner in the region in which the Service Center is situated.

(k) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance, modeled on the corresponding office of the Social Security Administration, that shall develop procedures and conduct audits to—

(1) ensure that national policies are correctly implemented;

(2) determine whether Service Bureau policies or practices result in poor file management or poor or inaccurate service; and

(3) report findings recommending corrective action to the Director of the Service Bureau.

(l) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility of receiving charges of misconduct or ill treatment made by the public and investigating the charges and providing an appropriate remedy or disposition.

(m) TRAINING OF PERSONNEL.—The Director of the Service Bureau, in consultation with the Associate Attorney General for Immigration Affairs, shall have responsibility for the training of all personnel of the Service Bureau.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Service Bureau such sums as may be necessary to carry out its functions.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(o) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Commissioner of Immigration and Naturalization or any other officer or employee of the Immigration and Naturalization Service (insofar as such references refer to any immigration adjudication and service function) shall be deemed to refer to the Director of the Service Bureau; or

(2) the Immigration and Naturalization Service (insofar as such references refer to any immigration adjudication and service function) shall be deemed to refer to the Service Bureau.

**SEC. 104. OFFICE OF THE OMBUDSMAN WITHIN THE SERVICE BUREAU.**

(a) IN GENERAL.—There is established within the Service Bureau the Office of the Ombudsman, which shall be headed by the Ombudsman.

(b) OMBUDSMAN.—

(1) APPOINTMENT.—The Ombudsman shall be appointed by the Director of the Service Bureau after consultation with the Associate Attorney General for Immigration Affairs and without regard to the provisions of title 5, United States Code,relating to appointments in the competitive service or the Senior Executive Service. The Ombudsman shall report directly to the Director of the Service Bureau.

(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Attorney General so determines, at a rate fixed under section 9503 of such title.

(c) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman shall include to—

(1) assist individuals in resolving service or case problems with the Agency or Service Bureau;

(2) identify areas in which individuals have problems in dealings with the Immigration Affairs Agency or Service Bureau;

(3) to the extent possible, propose changes in the administrative practices of the Agency or Service Bureau to mitigate problems identified under paragraph (2);

(4) monitor the coverage and geographic allocation of local offices of the Service Bureau; and

(5) ensure that the local telephone number for each local office of the Service Bureau is published and available to individuals served by the office.

(e) PERSONNEL ACTIONS.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify serious service problems.

(f) RESPONSIBILITIES OF DIRECTOR OF THE SERVICE BUREAU.—The Director of the Service Bureau shall establish procedures requiring a formal response to all recommendations submitted to the Director by the Ombudsman within 3 months after submission of the Ombudsman's reports or recommendations. The Director of the Service Bureau shall meet regularly with the Ombudsman to identify and correct serious service problems.

(g) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

(2) ACTIVITIES.—Not later than December 31 of each calendar year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Any such report shall contain a full and substantive analysis, in addition to statistical information, and shall—

(A) identify the initiatives the Office of the Ombudsman has taken on improving services and the responsiveness of the Agency and the Service Bureau;

(B) contain a summary of the most serious problems encountered by individuals, including a description of the nature of such problems;

(C) contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken, and the result of such action;

(D) contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Agency or Service Bureau official who is responsible for such inaction;

(F) contain recommendations as may be appropriate to resolve problems encountered by individuals;

(G) include such other information as the Ombudsman may deem advisable.

**SEC. 105. ESTABLISHMENT OF BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.**

(a) IMMIGRATION ENFORCEMENT FUNCTIONS DEFINED.—In this section, the term ''immigration enforcement functions'' means the following functions under the immigration laws of the United States:

(1) The Border Patrol program.

(2) The detention program (except as specified in section 103(a)).

(3) The deportation program.

(4) The intelligence program.

(5) The investigations program.

(b) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There is established within the Agency a bureau to be known as the Bureau of Enforcement and Border Affairs (in this section referred to as the ''Enforcement Bureau'').

(2) ENFORCEMENT BUREAU.—It is the sense of Congress that the Enforcement Bureau be organized in accordance with the ''best practices'' of other federal law enforcement agencies, including the Federal Bureau of Investigation and the Drug Enforcement Agency.

(3) DIRECTOR.—The head of the Enforcement Bureau shall be the Director of the Bureau of Enforcement and Border Affairs who—

(A) shall be appointed by the President, by and with the advice and consent of the Senate; and

(B) shall report directly to the Associate Attorney General for Immigration Affairs.

(4) COMPENSATION AT LEVEL IV OF EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Director of Enforcement and Border Affairs, Immigration Affairs Agency.''.

(c) RESPONSIBILITIES OF THE BUREAU.—Subject to the policy guidance of the Associate Attorney General for Immigration Affairs, the Enforcement Bureau shall be responsible for carrying out the immigration enforcement functions of the Agency.

(d) DELEGATION OF AUTHORITY BY THE ATTORNEY GENERAL.—All immigration enforcement functions vested by statute in, or exercised by—

(1) the Attorney General, or

(2) the Commissioner of Immigration and Naturalization, the Immigration and Naturalization Service, or officers, employees, or components thereof,

immediately prior to the effective date of this title shall be exercised by the Attorney General through the Associate Attorney General for Immigration Affairs and the Director of the Enforcement Bureau.

(e) CHIEF FINANCIAL OFFICER FOR THE BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.—

(1) IN GENERAL.—There shall be a position of Chief Financial Officer for the Bureau of Enforcement and Border Affairs and this position shall be a career reserved position within the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Enforcement Bureau. For purposes of section 902(a)(1) of such title, the Director of the Enforcement Bureau shall be deemed to be the head of the agency. The provisions of section 903 of such title (relating to Deputy Chief Financial Officers) shall also apply to such Bureau in the same manner as the previous sentence applies to such Bureau.

(2) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''Chief Financial Officer, Bureau of Enforcement and Border Affairs of the Immigration Affairs Agency.''.

(f) ORGANIZATION.—The Director of the Enforcement Bureau shall establish field offices in major cities and regions of the United States. The locations shall be selected according to trends in illegal immigration, alien smuggling, criminal aliens, the need for regional centralization, and the need to manage resources efficiently. Field offices shall also establish satellite offices as needed.

(g) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility of receiving charges of misconduct or ill treatment made by the public and investigating the charges and providing an appropriate remedy or disposition.

(h) TRAINING OF PERSONNEL.—The Director of the Enforcement Bureau, in consultation with the Associate Attorney General for Immigration Affairs, shall have responsibility for determining the law enforcement training for all personnel of the Enforcement Bureau.

(i) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Commissioner of Immigration and Naturalization or any other officer or employee of the Immigration and Naturalization Service (insofar as such references refer to any immigration enforcement function) shall be deemed to refer to the Director of the Enforcement Bureau; or

(2) the Immigration and Naturalization Service (insofar as such references refer to any immigration enforcement function) shall be deemed to refer to the Enforcement Bureau.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Enforcement Bureau such sums as may be necessary to carry out its functions.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 106. EXERCISE OF AUTHORITIES.**

Except as otherwise provided by law, a Federal official to whom a function is transferred pursuant to this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function pursuant to this title.

**SEC. 107. SAVINGS PROVISIONS.**

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—Sections 101 through 105 and this section shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this

title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such section.

**SEC. 108. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.**

(a) IN GENERAL.—

(1) TRANSFERS.—The personnel of the Department of Justice employed in connection with the functions transferred pursuant to this title (and functions that the Attorney General determines are properly related to the functions of the Office, the Service Bureau, or the Enforcement Bureau would, if so transferred, further the purposes of the Office and the respective Bureau), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Office or the Bureau, as the case may be, for appropriate allocation by the Associate Attorney General for Immigration Affairs for the Office or the Bureau, as the case may be. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated. The Attorney General shall retain the right to adjust or realign transfers of funds and personnel effected pursuant to this title for a period of 2 years after the date of the establishment of the Agency.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the transfers made pursuant to this title.

(b) DELEGATION AND ASSIGNMENT.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Associate Attorney General for Immigration Affairs, the Director of the Service Bureau, and the Director of the Enforcement Bureau to whom functions are transferred pursuant to this title may delegate any of the functions so transferred to such officers and employees of the Office of the Associate Attorney General for Immigration Affairs, the Service Bureau, and the Enforcement Bureau, respectively, as the Associate Attorney General or such Director may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred pursuant to this title of responsibility for the administration of the function.

(c) AUTHORITIES OF ATTORNEY GENERAL.—

(1) INCIDENTAL TRANSFERS.—The Attorney General (or a delegate of the Attorney General), at such time or times as the Attorney General (or the delegate) shall provide, may make such determinations as may be necessary with regard to the functions transferred pursuant to this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Attorney General shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

(2) TREATMENT OF SHARED RESOURCES.—

(A) IN GENERAL.—The Associate Attorney General for Immigration Affairs is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the Office, the Service Bureau, the Enforcement Bureau, and offices within the Department of Justice. The Associate Attorney General for Immigration Affairs shall maintain oversight and control over the shared computer databases and systems and records management.

(B) DATABASES.—The Associate Attorney General for Immigration Affairs, with the assistance of the Attorney General, shall ensure that the Immigration Affairs Agency's databases and those of the Service Bureau and the Enforcement Bureau are integrated with the databases of the Executive Office for Immigration Review in such a way as to permit—

(i) the electronic docketing of each case by date of service upon an alien of the notice to appear in the case of a removal proceeding (or an order to show cause in the case of a deportation proceeding); and

(ii) the tracking of the status of any alien throughout the alien's contact with United States immigration authorities without regard to whether the entity with jurisdiction over the alien is the Immigration Affairs Agency, the Service Bureau, the Enforcement Bureau, or the Executive Office for Immigration Review.

**SEC. 109. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AND ATTORNEY GENERAL LITIGATION AUTHORITIES NOT AFFECTED.**

Nothing in this title may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Executive Office for Immigration Review of the Department of Justice, or any officer, employee, or component thereof, or

(2) the Attorney General with respect to the institution of any prosecution, or the institution or defense of any action or appeal, in any court of the United States established under Article III of the Constitution,

immediately prior to the effective date of this title.

**SEC. 110. DEFINITIONS.**

For purposes of this title:

(1) FUNCTION.—The term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(2) OFFICE.—The term ''office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

**SEC. 111. EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect 18 months after the date of enactment of this Act.

## TITLE II—PERSONNEL FLEXIBILITIES

**SEC. 201. IMPROVEMENTS IN PERSONNEL FLEXIBILITIES.**

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

**''Subpart J—Immigration Affairs Agency Personnel**

**''CHAPTER 96—PERSONNEL FLEXIBILITIES RELATING TO THE IMMIGRATION AFFAIRS AGENCY**

''Sec.
''9601. Immigration Affairs Agency personnel flexibilities.
''9602. Pay authority for critical positions.
''9603. Streamlined critical pay authority.
''9604. Recruitment, retention, relocation incentives, and relocation expenses.
''9605. Performance awards for senior executives.

**''§ 9601. Immigration Affairs Agency personnel flexibilities**

''(a) Any flexibilities provided by sections 9602 through 9610 of this chapter shall be exercised in a manner consistent with—

''(1) chapter 23 (relating to merit system principles and prohibited personnel practices);

''(2) provisions relating to preference eligibles;

''(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

''(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

''(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Attorney General under section 1104(a)(2).

''(b) The Attorney General shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

''(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9607 through 9610 of this chapter unless the exclusive representative and the Immigration Affairs Agency have entered into a written agreement which specifically provides for the exercise of that flexibility. Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

**''§ 9602. Pay authority for critical positions**

''(a) When the Attorney General seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Immigration Affairs Agency, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

''(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

**''§ 9603. Streamlined critical pay authority**

''(a) Notwithstanding section 9602, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Attorney General may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Immigration Affairs Agency, if—

''(1) the positions—

''(A) require expertise of an extremely high level in an administrative, technical, or professional field; and

''(B) are critical to the Immigration Affairs Agency's successful accomplishment of an important mission;

''(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

''(3) the number of such positions does not exceed 40 at any one time;

''(4) designation of such positions are approved by the Attorney General;

''(5) the terms of such appointments are limited to no more than 4 years;

''(6) appointees to such positions were not Immigration Affairs Agency employees prior to July 1, 1999;

''(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

''(8) all such positions are excluded from the collective bargaining unit.

''(b) Individuals appointed under this section shall not be considered to be employees for purposes of subchapter II of chapter 75.

**''§ 9604. Recruitment, retention, relocation incentives, and relocation expenses**

''(a) For a period of 10 years after the date of enactment of this section and subject to approval by the Office of Personnel Management, the Attorney General may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

''(b) For a period of 10 years after the date of enactment of this section, the Attorney General may pay from appropriations made to the Immigration Affairs Agency allowable relocation expenses under section 5724a for employees transferred or reemployed and allowable travel and transportation expenses under section 5723 for new appointees, for any new appointee appointed to a position for which pay is fixed under section 9602 or 9603 after July 1, 1999.

**''§ 9605. Performance awards for senior executives**

''(a) For a period of 10 years after the date of enactment of this section, Immigration Affairs Agency senior executives who have program management responsibility over significant functions of the Immigration Affairs Agency may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Attorney General finds such award warranted based on the executive's performance.

''(b) In evaluating an executive's performance for purposes of an award under this section, the Attorney General shall take into account the executive's contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993 and other performance metrics or plans established in consultation with the Attorney General.

''(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Attorney General.

''(d) Notwithstanding section 5384(b)(3), the Attorney General shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Immigration Affairs Agency. Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Immigration Affairs Agency during the preceding fiscal year. The Immigration Affairs Agency shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Justice other than the Immigration Affairs Agency.

''(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of title 5, United States Code, is amended by adding at the end the following new items:

''SUBPART J—IMMIGRATION AFFAIRS AGENCY PERSONNEL

''96. Personnel flexibilities relating to the Immigration Affairs Agency ..... 9601.''.

**SEC. 202. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

(a) DEFINITION.—In this section, the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Immigration Affairs Agency serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(5) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(6) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(7) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Associate Attorney General for Immigration Affairs may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to reorganize the Immigration Affairs Agency under title I.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(c) ADDITIONAL IMMIGRATION AFFAIRS AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Immigration Affairs Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—In paragraph (1), the term ''final basic pay'', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefore.

(d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Immigration Affairs Agency.

(e) USE OF VOLUNTARY SEPARATIONS.—The Immigration Affairs Agency may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

**SEC. 203. BASIS FOR EVALUATION OF IMMIGRATION AFFAIRS AGENCY EMPLOYEES.**

(a) FAIR AND EQUITABLE TREATMENT.—The Immigration Affairs Agency shall use the fair and equitable treatment of aliens by employees as one of the standards for evaluating employee performance.

(b) EFFECTIVE DATE.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

**SEC. 204. EMPLOYEE TRAINING PROGRAM.**

(a) IN GENERAL.—Not later than 180 days after the effective date of this Act, the Director of the Service Bureau and the Director of the Enforcement Bureau, in consultation with the Associate Attorney General for Immigration Affairs, shall each implement an employee training program for the personnel of their respective bureaus and shall each submit an employee training plan to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(b) CONTENTS.—The plan submitted under subsection (a) shall—

(1) detail a schedule for training and the fiscal years during which the training will occur;

(2) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

(3) with respect to the Service Bureau, after consultation by the Associate Attorney General for Immigration Affairs with the Director of the Service Bureau, detail a comprehensive employee training program to ensure adequate customer service training;

(4) detail any joint training of both Service Bureau and Enforcement Bureau personnel in appropriate areas;

(5) review the organizational design of customer service; and

(6) provide for the implementation of a performance development system.

**SEC. 205. EFFECTIVE DATE.**

Except as otherwise provided in this title, this title, and the amendments made by this title, shall take effect 18 months after the date of enactment of this Act.

**TITLE III—ADDITIONAL PROVISIONS**

**SEC. 301. EXPEDITED PROCESSING OF DOCUMENTS.**

(a) 30-DAY PROCESSING OF ''H–1B'', ''L'', ''O'', OR ''P–1'' NONIMMIGRANTS.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended by adding at the end the following: ''The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15) (H)(i)(b), (L), (O), or (P)(i) within 30 days after the date a completed petition has been filed.''.

(b) 30-DAY PROCESSING OF ''R'' NONIMMIGRANTS.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(10) The Attorney General shall provide a process for reviewing and acting upon petitions under the subsection with respect to nonimmigrants described in section 101(a)(15)(R) within 30 days after the date a completed petition has been filed.''.

(c) 60-DAY PROCESSING OF IMMIGRANTS.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

''(j) The Attorney General shall provide a process for reviewing and acting upon petitions under this section within 60 days after the date a completed petition has been filed under this section.''.

(d) 90-DAY PROCESSING OF ADJUSTMENT OF STATUS APPLICATIONS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

''(l) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection within 90 days after the date a completed petition has been filed.''.

(e) 90-DAY PROCESSING OF IMMIGRANT VISA APPLICATIONS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) The Secretary of State shall provide a process for reviewing and acting upon petitions under this section within 90 days after the date a completed application has been filed.''.

(f) REENTRY PERMITS.—Section 223 of the Immigration and Nationality Act (8 U.S.C. 1203) is amended by adding at the end the following new subsection:

''(f) EXCEPTION.—No permit shall be required for a permanent resident who is transferred abroad temporarily as a result of employment with a United States employer or its overseas parent, subsidiary, or affiliate.''.

(g) ELECTRONIC FILING.—Not later than one year after the date of enactment of this Act, the Attorney General shall establish a demonstration project regarding the feasibility of electronic filing of petitions with respect to nonimmigrants described in section 101(a)(15) (H), (L), (O), (P)(i), or (R) of the Immigration and Nationality Act. The demonstration project shall utilize a representative number of employers who seek to employ those nonimmigrants. The demonstration project shall make provision for payment by the employer of related fees through the establishment of an account with the Immigration and Naturalization Service or through a credit card. Within 2 years of the date of enactment of this Act, the Attorney General shall consider the feasibility of offering electronic filing to all petitioners.''.

(h) REPORT.—Section 214(c)(8) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(8)) is amended by adding at the end the following new subparagraph:

''(F) The average processing time of each such type of petition shall be reported annually and quarterly.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the effective date of Title I.

**SEC. 302. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.**

Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended—

(1) by striking '': *Provided further,*'' and all that follows through ''immigrants.'' and inserting the following: ''Each fee collected for the provision of an adjudication or naturalization service may be used only to fund adjudication or naturalization services or the costs of similar services provided without charge to asylum or refugee applicants.''; and

(2) by adding at the end the following new sentences: ''Nothing in this subsection shall be construed to modify the conditions specified in section 286(s) for the expenditure of the proceeds for the fee authorized under section 214(c)(9). There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 207 through 209 of this Act.''.

**SEC. 303. INCREASE IN BORDER PATROL AGENTS AND SUPPORT PERSONNEL.**

Section 101(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by striking ''and 2001'' and inserting ''2001, 2002, 2003, and 2004''.

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By Mr. SARBANES (for himself, Mr. EDWARDS, Mr. BAYH, and Mr. KERRY):

S. 1565. A bill to license America's Private Investment Companies and provide enhanced credit to stimulate private investment in low-income communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

AMERICA'S PRIVATE INVESTMENT COMPANIES (APIC)

• Mr. SARBANES. Mr. President, I am pleased to introduce today legislation to establish ''America's Private Investment Companies,'' or APIC. This legislation is part of President Clinton's ''New Markets Initiative,'' which I am also pleased to be able to support.

The New Markets Initiative, of which APIC is a crucial element, is an important response to economic problems that persist in many neighborhoods and communities in our urban and rural areas. These communities have been bypassed by the increased investment, job growth, and income increases that have characterized this unprecedented period of economic expansion. Indeed, the areas that would benefit from the New Markets Initiative are experiencing increased poverty levels, increased isolation, and ongoing joblessness and decay.

Yet, research increasingly shows that most of these areas represent good economic opportunities for American business. Michael Porter, a renowned business analyst who has written widely on competitiveness at both the firm and national levels, has written that a

> . . . major advantage of the inner city as a business location is a large, underserved local market. . . . In fact, inner cities are the largest underserved market in America, with many tens of billions of dollars of unmet consumer and business demand.

Another group called Social Compact has done intensive studies of buying power in a number of communities around the country. These studies confirm Porter's earlier work. Social Compact estimated retail spending power in two communities in Chicago. Residents in the first community have median incomes of over $67,000 million whereas the median income in the second community is under $30,000. Yet, on a per acre basis, the lower income community has more than twice the spending power of the wealthier area.

Moreover, as labor markets grow tighter and tighter, inner cities have the advantage of an ''available, loyal workforce,'' to again quote Mr. Porter.

However, we need a catalyst to encourage business to take advantage of these opportunities. The APIC program provides that push. This bill gives the Department of Housing and Urban Development (HUD), together with the Small Business Administration (SBA), authority to provide low-cost loans on a matching basis to specially constituted investment companies, called APICs, that raise private equity capital for investment in businesses in low-income areas.

Individual APICs will operate in a manner similar to Small Business Investment Companies (SBICs), a very successful program that helps fund start up small business. APIC will target its investment funds to larger businesses that locate in these underserved areas, with particular emphasis on those businesses that create good jobs in those neighborhoods.

The APIC program is essentially a private-sector venture in partnership with the public sector. The managers of the individual APICs will make the investment decisions according to the program goals and criteria. They will have their money, and the money of their investors, at risk, making the government's loan much more secure.

This program requires a very small federal investment—just $36 million in credit subsidy—to create an estimated $1 billion in debt financing available. This debt will, in turn, generate $500 million in private equity per year, or $7.5 billion over the next five years. APICs would use these funds, for example, to help a business establish a new back-office facility, factory, or distribution plant in a low income area. APICs could invest in the development of multi-tenant shopping centers, or in industrial parks. Combined with the New Market Tax Credit being introduced by my colleagues Senator ROCKEFELLER and Senator ROBB, APIC will help create important new economic opportunities in parts of America that have not yet been touched by

the economic prosperity most of us enjoy.

Mr. President, I ask that letters of support be printed in the RECORD.

The letters follow:

NEW YORK CITY INVESTMENT FUND,
*August 2, 1999.*

Senator PAUL SARBANES,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR SARBANES: We are writing in support of a new initiative proposed by the Department of Housing and Urban Development and the Small Business Administration, known as America's Private Investment Companies Bill. We have provided input into the proposed legislation and believe that this bill could leverage significant new private capital for investment in communities that are not fully participating in our otherwise thriving national economy.

We established the New York City Investment Fund in 1996 to stimulate business development and job-generating activities across the five boroughs, with a particular emphasis on low and moderate-income communities. Our investors include many of the city's leading financial institutions, corporations and business leaders, each of whom put up $1 million and committed the resources of their organization to support our work. With $80 million under management, the Fund has already invested some $20 million in projects that will generate more than 4,000 new jobs. Most important, we have mobilized the city's business and financial leadership to become personally involved with our portfolio projects, providing business expertise and strategic alliances that are essential for bringing disadvantaged communities into the economic mainstream.

Based on our experience, we can confirm that there is a severe shortage of equity and debt financing for largescale projects in low-income areas. Issues associated with site assemblage, brownfields remediation, high construction costs in urban centers, and low property appraisals in the inner city all contribute to the need for federal incentives to stimulate investment in job-generating development projects targeted to these areas. At the same time, many existing businesses operating in these areas cannot attract conventional financing to modernize or expand. We have seen a number of opportunities where our Fund's resources could have been useful, but only if we could leverage additional risk capital from other sources. The APIC program would be a unique source of capital and partial loan guarantees that our Fund could definitely put to work in the inner city communities of New York for new development and retention/expansion of businesses that may otherwise disappear.

We urge you to move this bill forward, in conjunction with the proposed New Markets Tax Credit proposal, and express our willingness to work with the federal government to carry out the mission of APIC once it is enacted.

Sincerely,

HENRY R. KRAVIS.
KATHRYN WYLDE.

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LOCAL INITIATIVES
SUPPORT CORPORATION,
*July 30, 1999,*

Hon. PAUL SARBANES,
*U.S. Senate, Senate Committee on Banking and Financial Services, Washington, DC.*

DEAR SENATOR SARBANES: Local Initiatives Support Corporation strongly supports the proposed America's Private Investment Companies (APICs) legislation and urges you to make its enactment a priority. We believe that APICs, along with their companion New Markets Tax Credits, offer the most exciting opportunity in a generation for the economic development of low-income urban and rural communities.

LISC is the nation's largest nonprofit resource for low-income community development. In almost 20 years, LISC has raised over $3 billion from the private sector to invest in low-income urban and rural areas through nonprofit community development corporations (CDCs). Last year alone, LISC provided over $600 million through 41 local programs and a national rural initiative.

Each year more distressed communities are becoming ripe for economic development. For example, LISC is involved in 20 major retail projects, at a total cost of $250 million, in some of the toughest neighborhoods in America. Smart business leaders are beginning to discover that these untapped markets offer profitable opportunities. The expanding economy is one reason. More important, though, have been the many years of painstaking work rebuilding housing, removing blight, reducing crime, and restoring confidence.

We know from experience that this progress does not come easily. Assembling land and constructing a modern business facility are costly and time consuming, and arranging the financing is difficult. But the payoff for communities and the nation—in jobs, income, reinvestment, services, and social stability—is well worth it.

That's why APICs are the right idea at the right time. They would help experienced community developers to mobilize private capital to seize economic development activities. These new instruments reflect what works—markets discipline, private risk taking and decision making, and genuine partnership among communities, business leaders, and government. APICs would have to raise at least one dollar of private equity investment to attract two dollars of federally guaranteed loans. Moreover, the private investors would have to lose their entire stake before any federally guarantee can be called. This structure will generate prudent underwriting without excessive government interference. The APICs structure permits a modest $37 million in credit subsidies to generate $1.5 billion in economic development—a remarkably cost-effective federal investment.

I hope you will enthusiastically support APICs and the New Markets Tax Credits. We would be pleased to work with you on this exciting agenda.

Sincerely,

MICHAEL RUBINGER,
*President and Chief Executive Officer.*●

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By Mr. ALLARD:

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution of the United States granting the President the authority to exercise an item veto of individual appropriations in an appropriations bill; to the Committee on the Judiciary.

THE LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

● Mr. ALLARD. Mr. President, the federal budget is prominent right now as we discuss the spending policies that will guide Congress through the coming fiscal years. In the midst of these discussions, I would like to bring up an important issue that many members have supported in the past. I am here today to introduce a line-item veto constitutional amendment.

Prior to my election to the Senate I served in the House of Representatives. In that body I introduced a constitutional line-item veto on several occasions. This was motivated by my view that the greatest threat to our economy was deficit spending which is still adding to the accumulated $5.6 trillion national debt. As a Member of the Senate, I introduced this legislation again in 1997. This occurred just after a Federal district court declared the enacted statutory line-item veto, or more accurately, enhanced rescission authority, to be unconstitutional.

In 1996, Congress gave the President what is generally referred to as expanded rescission authority when it passed the Line Item Veto Act. All Presidents, beginning with George Washington, had impoundment authority similar to what the Line Item Veto Act intended until Congress limited rescission authority in 1974 under the Impoundment Control Act.

Ultimately the Supreme Court upheld the district court ruling in *Clinton* v. *City of New York*, where the Line Item Veto Act was ruled unconstitutional on grounds that it violates the presentment clause. Now a presidential line-item veto can only be provided by amending the Constitution, and that is what I seek to do with this legislation.

Governors in 43 states have some type of line item veto. This is consistent with the approach taken in most state constitutions of providing a greater level of detail concerning the budget process than is contained in the U.S. Constitution. In my view, the line item veto has been an important factor in the more responsible budgeting that occurs at the state level.

Colorado gives line item veto authority to the governor, and that power, along with a balanced budget requirement in the state constitution, has worked well and insured that Colorado has been governed in a fiscally responsible manner regardless of who served in the legislature or in the governor's office.

I believe it is time that we take the approach of the states. In order to do this we must enact a Constitutional Amendment. Under article I, section 7 of the Constitution, the President's veto authority has been interpreted to mean that he must sign or veto an entire piece of legislation.

The Constitution reads: ''Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, * * *'' this section then proceeds to outline the procedures by which Congress may override this veto with a two-thirds vote of both houses.

The amendment that I am introducing today amends this language as it pertains to appropriations bills. It specifically provides that the President shall have the power to disapprove any appropriation of an appropriations bill at the time the President approves the bill.

This change will make explicit that the President is no longer confined to

either vetoing or signing an entire bill, but that he may choose to single out certain appropriations for veto and still sign a portion of the bill.

A constitutional amendment ensuring that the President has line-item veto authority over congressional spending bills is an important tool in our continuing efforts to restore fiscal responsibility to the Federal government.

Mr. President, I look forward to further discussion on this important issue. We must seriously consider a constitutional amendment to allow the line item veto, and I hope that my colleagues will support this amendment or similar language in the Senate.●

## ADDITIONAL COSPONSORS

S. 35

At the request of Mr. GRASSLEY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 35, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the long-term care insurance costs of all individuals who are not eligible to participate in employer-subsidized long-term care health plans.

S. 72

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 72, a bill to amend title 38, United States Code, to restore the eligibility of veterans for benefits resulting from injury or disease attributable to the use of tobacco products during a period of military service, and for other purposes.

S. 88

At the request of Mr. BUNNING, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 88, a bill to amend title XIX of the Social Security Act to exempt disabled individuals from being required to enroll with a managed care entity under the medicaid program.

S. 201

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 201, a bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes.

S. 309

At the request of Mr. MCCAIN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 391

At the request of Mr. KERREY, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 391, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 469

At the request of Mr. BREAUX, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 469, a bill to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 512

At the request of Mr. GORTON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 619

At the request of Mr. WELLSTONE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 619, a bill to provide for a community development venture capital program.

S. 635

At the request of Mr. MACK, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 635, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

S. 662

At the request of Mr. CHAFEE, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 662, a bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program.

S. 664

At the request of Mr. CHAFEE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 693

At the request of Mr. HELMS, the name of the Senator from Missouri (Mr. ASHCROFT) 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. 709

At the request of Mr. DASCHLE, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 709, a bill to amend the Housing and Community Development Act of 1974 to establish and sustain viable rural and remote communities, and to provide affordable housing and community development assistance to rural areas with excessively high rates of outmigration and low per capita income levels.

S. 758

At the request of Mr. ASHCROFT, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 764

At the request of Mr. THURMOND, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 764, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 805, a bill to amend title V of the Social Security Act to provide for the establishment and operation of asthma treatment services for children, and for other purposes.

S. 820

At the request of Mr. CHAFEE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 820, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 867

At the request of Mr. ROTH, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 867, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 880

At the request of Mr. BUNNING, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from

Hawaii (Mr. INOUYE) were added as cosponsors of S. 880, a bill to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program

S. 894

At the request of Mr. CLELAND, the name of the Senator from Michigan (Mr. LEVIN) 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. 895

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 895, a bill to provide for the establishment of Individual Development Accounts (IDAs) that will allow individuals and families with limited means an opportunity to accumulate assets, to access education, to own their own homes and businesses, and ultimately to achieve economic self-sufficiency, and for other purposes.

S. 1016

At the request of Mr. DEWINE, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1016, a bill to provide collective bargaining for rights for public safety officers employed by States or their political subdivisions.

S. 1036

At the request of Mr. KOHL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1036, a bill to amend parts A and D of title IV of the Social Security Act to give States the option to pass through directly to a family receiving assistance under the temporary assistance to needy families program all child support collected by the State and the option to disregard any child support that the family receives in determining a family's eligibility for, or amount of, assistance under that program.

S. 1043

At the request of Mr. MCCAIN, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1043, a bill to provide freedom from regulation by the Federal Communications Commission for the Internet.

S. 1070

At the request of Mr. BOND, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 1070, a bill to require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a standard, regulation or guideline on ergonomics.

S. 1139

At the request of Mr. REID, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1139, a bill to amend title 49, United States Code, relating to civil penalties for unruly passengers of air carriers and to provide for the protection of employees providing air safety information, and for other purposes.

S. 1214

At the request of Mr. THOMPSON, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1214, a bill to ensure the liberties of the people by promoting federalism, to protect the reserved powers of the States, to impose accountability for Federal preemption of State and local laws, and for other purposes.

At the request of Mr. THOMPSON, the name of the Senator from Oklahoma (Mr. INHOFE) was withdrawn as a cosponsor of S. 1214, supra.

S. 1269

At the request of Mr. MCCONNELL, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1269, a bill to provide that the Federal Government and States shall be subject to the same procedures and substantive laws that would apply to persons on whose behalf certain civil actions may be brought, and for other purposes.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1277

At the request of Mr. GRASSLEY, the names of the Senator from Nevada (Mr. REID) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of 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.

S. 1293

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1293, a bill to establish a Congressional Recognition for Excellence in Arts Education Board.

S. 1300

At the request of Mr. HARKIN, the names of the Senator from Nevada (Mr. REID) the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1300, a bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to prevent the wearing away of an employee's accrued benefit under a defined plan by the adoption of a plan amendment reducing future accruals under the plan.

S. 1334

At the request of Mr. AKAKA, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1334, a bill to amend chapter 63 of title 5, United States Code, to increase the amount of leave time available to a Federal employee in any year in connection with serving as an organ donor, and for other purposes.

S. 1358

At the request of Mr. JEFFORDS, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 1358, a bill to amend title XVIII of the Social Security Act to provide more equitable payments to home health agencies under the medicare program.

S. 1369

At the request of Mr. JEFFORDS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1369, a bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes.

S. 1438

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1438, a bill to establish the National Law Enforcement Museum on Federal land in the District of Columbia.

S. 1462

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1462, a bill to amend the Federal Food, Drug, and Cosmetic Act to permit importation in personal baggage and through mail order of certain covered products for personal use from Canada, and for other purposes.

S. 1488

At the request of Mr. GORTON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

SENATE CONCURRENT RESOLUTION 9

At the request of Ms. SNOWE, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of Senate Concurrent Resolution 9, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE CONCURRENT RESOLUTION 49

At the request of Mr. VOINOVICH, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of Senate Concurrent Resolution 49, a concurrent resolution expressing the sense of Congress regarding the importance of ''family friendly'' programming on television.

SENATE RESOLUTION 128

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of Senate Resolution 128, a resolution designating March 2000, as ''Arts Education Month.''

AMENDMENT NO. 1489

At the request of Mr. ENZI the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 1489 intended to be proposed to H.R. 2466, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

AMENDMENT NO. 1548

At the request of Mr. SMITH the names of the Senator from Oregon (Mr. WYDEN), the Senator from Wisconsin (Mr. KOHL), the Senator from Massachusetts (Mr. KERRY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mrs. MURRAY), and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 1548 proposed to S. 1233, an original bill 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.

## SENATE CONCURRENT RESOLUTION 51—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 51

*Resolved by the Senate (the House of Representatives concurring),* That when the Senate recesses or adjourns at the close of business on Thursday, August 5, 1999, Friday, August 6, 1999, or Saturday, August 7, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stands recessed or adjourned until noon on Wednesday, September 8, 1999, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, August 5, 1999, Friday, August 6, 1999, or Saturday, August 7, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stands adjourned until 10:00 a.m. on Wednesday, September 8, 1999, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

## SENATE CONCURRENT RESOLUTION 52—EXPRESSING THE SENSE OF CONGRESS IN OPPOSITION TO A ''BIT TAX'' ON INTERNET DATA PROPOSED IN THE HUMAN DEVELOPMENT REPORT 1999 PUBLISHED BY THE UNITED NATIONS DEVELOPMENT PROGRAMME

Mr. ASHCROFT submitted the following resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 52

Whereas the Internet has become a highly valued tool for millions of people in the United States and promises to be an integral component of international commerce communications;

Whereas the Internet has spurred entirely new industries dominated by the United States and has become critical to the continued growth of our economy;

Whereas emerging telecommunications technologies promise to extend the benefits of the Internet to a growing percentage of the world population;

Whereas the Internet should remain tax-free;

Whereas any global tax collected by the United Nations would present a threat to the sovereignty of the United States and would violate the United States Constitution;

Whereas Americans are by far the greatest users of the Internet and would thus be disproportionately affected by any global Internet tax;

Whereas the most effective and just way to spread technology and wealth is through the operation of a free market;

Whereas the rapidly increasing sophistication and decreasing cost of telecommunications and computing products and services should not be disturbed; and

Whereas the United Nations Development Programme's Human Development Report 1999 proposed that a so-called ''bit tax'' be levied on all data sent through the Internet: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress urges the Administration to protect the sovereignty of the United States by aggressively opposing the global ''bit tax'' proposed in the Human Development Report 1999 published by the United Nations Development Programme.

Mr. ASHCROFT. Mr. President. I stand before this body today to strongly oppose any attempt made by the United Nations to tax the American people. In its recently released Human Development Report, a proposal was included that would impose a one cent tax on Internet e-mail. This proposed tax would violate every virtue of the American people. The United States should not be subjected to an internationally levied tax.

The United States was founded on the principle of ''no taxation without representation.'' John Locke said, ''If any one shall claim a power to lay and levy taxes on the people, . . . without . . . consent of the people, he thereby . . . subverts the end of government.'' Consent, according to Locke, could only be given by a majority of the people, ''either by themselves or their representatives chosen by them.'' Among the first powers that the Constitution gave to the Congress, the government's most representative branch, was the power to tax. And, notably, bills to raise revenue must originate in the House of Representatives. The United Nations does not hold the power, authority or right to levy taxes on the American people. This tax would be in direct violation of American sovereignty.

There are currently 150 million Internet users in the world, 80 percent reside in the United States. Therefore, the United States would bear the biggest burden of this proposed tax. The American people are already overtaxed by the U.S. government, without being subjected to a tax imposed by the United Nations. By 2001, this number is expected to grow to approximately 700 million. If imposed, this tax would raise an estimated $70 billion in tax revenue annually, in addition to the United States' share of the UN's regular budget of $298 million. Mr. President, I firmly believe the Internet should be allowed to progress without government involvement or taxation. Instead of trying to tax the Internet we should be taking every action necessary to encourage its development.

Mr. President, the American people are constantly burdened by the affects of local, state, and federal taxes. Last week alone, we historically voted to give the American people a reprieve, cutting taxes by $792 billion. The American people do not deserve this unfair and unjust tax. The Internet and e-mail are possibly the greatest inventions of modern technological history. They have revolutionized communication and have changed modern society. This proposed tax by the United Nations, or any other tax suggested by the UN—or any other international organization—should be aggressively opposed by the U.S. government.

## SENATE CONCURRENT RESOLUTION 53—CONCURRENT RESOLUTION CONDEMNING ALL PREJUDICE AGAINST INDIVIDUALS OF ASIAN AND PACIFIC ISLAND ANCESTRY IN THE UNITED STATES AND SUPPORTING POLITICAL AND CIVIC PARTICIPATION BY SUCH INDIVIDUALS THROUGHOUT THE UNITED STATES

Mrs. FEINSTEIN (for herself, Ms. MIKULSKI, Mrs. BOXER, Mr. AKAKA, Mr. BINGAMAN, and Mr. SARBANES) submitted the following concurrent resolution; which was referred the Committee on the Judiciary:

S. CON. RES. 53

Whereas the belief that all persons have the right to life, liberty, and the pursuit of happiness is a truth that individuals in the United States hold as self-evident;

Whereas all individuals in the United States are entitled to the equal protection of law;

Whereas individuals of Asian and Pacific Island ancestry have made profound contributions to life in the United States, including the arts, the economy, education, the sciences, technology, politics, and sports, among other areas;

Whereas individuals of Asian and Pacific Island ancestry have demonstrated their patriotism by honorably serving to defend the United States in times of armed conflict, from the Civil War to the present;

Whereas due to recent allegations of espionage and illegal campaign financing, the loyalty and probity of individuals of Asian and Pacific Island ancestry in the United States have been questioned;

Whereas individuals of Asian and Pacific Island ancestry have suffered unfounded and demagogic accusations of disloyalty throughout the history of the United States; and

Whereas individuals of Asian and Pacific Island ancestry have been subjected to discriminatory laws, including the former Act of May 6, 1882 (22 Stat. 58, chapter 126) (often referred to as the 'Chinese Exclusion Act') and a 1913 California law relating to alien-owned land, and by discriminatory actions, including internment of patriotic and loyal individuals of Japanese ancestry during the Second World War, the repatriation of Filipino immigrants, and the prohibition of individuals of Asian and Pacific Island ancestry from owning property, voting, testifying in court, or attending school with other people in the United States: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That—

(1) Congress condemns all prejudice against individuals of Asian and Pacific Island ancestry in the United States and publicly supports the participation of the individuals in the political, public, and civic affairs of the United States; and

(2) it is the sense of Congress that—

(A) no Member of Congress or any other individual in the United States should stereotype or generalize the actions of an individual to an entire group of people;

(B) individuals of Asian and Pacific Island ancestry in the United States are entitled to all rights and privileges afforded to all individuals in the United States; and

(C) the Attorney General, the Secretary of Energy, and the Commissioner of the Equal Employment Opportunity Commission should, within their respective jurisdictions, investigate all allegations of discrimination in public or private workplaces and vigorously enforce the security of the national laboratories of the United States, without discriminating against individuals of Asian and Pacific Island ancestry.

• Mrs. FEINSTEIN. Mr. President, today I am pleased to be joined by Senators BOXER, MIKULSKI, AKAKA, BINGAMAN, and SARBANES in submitting a resolution to condemn all prejudice against individuals of Asian and Pacific Island ancestry in the United States, and to support the full participation by such individuals in the political and civic affairs of the United States.

Given some of the recent reactions and media coverage of the Cox committee report and campaign finance allegations, this resolution expresses the sense of Congress that no individual or institution of the United States should stereotype an entire group of people and that all individuals in the United States, including people of Asian and Pacific Island ancestry, are entitled to the same rights and privileges.

Indeed, over the past several months I have grown increasingly disturbed by some of the reactions and media coverage of the allegations of espionage at our national labs and illegal campaign financing that have called into question the loyalty of Americans of Asian and Pacific Island descent.

Clearly, any individuals who are suspected of engaging in illegal or unethical conduct, regardless of their ancestry or heritage, should be investigated.

However, the entire Asian and Pacific Island community should not be stereotyped or impugned as a result of the alleged actions of a few.

Throughout the history of the United States, Americans of Asian and Pacific Island ancestry have suffered from unfounded and demagogic accusations of disloyalty. Americans of Asian and Pacific Island descent have been subjected to discriminatory laws, such as the 1882 Chinese Exclusionary Act and a 1913 California law relating to alien-owned land.

They have also been subjected to discriminatory actions, including the interment of patriotic and loyal Japanese Americans during World War II, the repatriation of Filipino immigrants, and the prohibition of individuals from owning property, voting, testifying in court or attending school with other people in the United States.

In light of this history, I am appalled that in recent months some have resorted to negative stereotypes to question the integrity of an entire community.

In an impassioned letter, one of my constituents expressed, ''As a Chinese American . . . I ask no more than what is due to every citizen of this country, namely, to be treated with respect and dignity. I resent those who would question the loyalty of Chinese Americans any time a particular Chinese American is suspected of an egregious act. In their haste to decry the alleged espionage by an individual, not only are these public officials and said media guilty of a rush to judgment but of tarring with a broad brush other American citizens who are guilty of nothing else other than having the same ethnicity of the suspect.''

Another one of my constituents wrote, ''It appears that China has become Washington D.C.'s latest scapegoat. The accusations coming out of Washington severely damage what could be an excellent relationship and are dangerously close to spilling over in this country to an anti-Chinese and anti-Asian bias against solid U.S. citizens.''

These comments should not be taken lightly. All Americans should be highly offended by the negative stereotypes and media coverage of members of our community who have made profound contributions to our nation. Americans of Asian and Pacific Island descent have made great contributions to the arts, the economy, the sciences, politics, sports, and technology, among other areas. They have honorably defended the United States in times of armed conflict, from the Civil War to the present. By virtue of their membership in American society, they have just as much stake in this country as an American from any other ethnic background, and should not be held to a different standard.

I hope my colleagues will support this resolution and join us in taking a firm stand against discrimination and prejudice against individuals of Asian and Pacific Island ancestry in the United States.•

## SENATE CONCURRENT RESOLUTION 54—EXPRESSING THE SENSE OF CONGRESS THAT THE AUSCHWITZ-BIRKENAU STATE MUSEUM IN POLAND SHOULD RELEASE SEVEN PAINTINGS BY AUSCHWITZ SURVIVOR DINA BABBITT MADE WHILE SHE WAS IMPRISONED THERE, AND THAT THE GOVERNMENTS OF THE UNITED STATES AND POLAND SHOULD FACILITATE THE RETURN OF DINA BABBIT'S ARTWORK TO HER

Mrs. BOXER (for herself and Mr. HELMS): submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 54

Whereas Dina Babbitt (formerly known as Dinah Gottliebova), a United States citizen now 76 years old, has requested the return of watercolor portraits she painted while suffering a year and a half long internment at the Auschwitz death camp;

Whereas Dina Babbitt was ordered to paint the portraits by the infamous war criminal Dr. Josef Mengele;

Whereas Dina Babbitt's life, and her mother's life, were spared only because she painted portraits of doomed inmates of Auschwitz-Birkenau, under orders from Dr. Josef Mengele;

Whereas Dina Babbitt is unquestionably the rightful owner of the artwork, since it was produced by her own talented hands as she survived the unspeakable conditions that prevailed at the Auschwitz death camp;

Whereas only 22 of the 3,800 Czech Jews scheduled for death at Auschwitz in March of 1944 survived the Auschwitz ordeal, and among those who were murdered were relatives of Dina Babbitt;

Whereas to continue to deny Dina Babbitt the property that is rightfully hers adds to the pain and suffering she has experienced because of the Auschwitz ordeal;

Whereas the artwork is not available to public view at the Auschwitz-Birkenau state museum and therefore this unique and important body of work is essentially lost to history; and

Whereas this continued injustice can be righted through cooperation between agencies of the United States and Poland: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress—

(1) recognizes the moral right of Dina Babbitt to obtain the artwork she created, and recognizes her courage in the face of the evils perpetrated by the Nazi command of the Auschwitz-Birkenau death camp, including the atrocities committed by Dr. Josef Mengele;

(2) urges the President to make all efforts necessary to retrieve the seven watercolor portraits Dina Babbitt painted, while suffering a year and a half long internment at the Auschwitz death camp, and return them to her;

(3) urges the State Department to make immediate diplomatic efforts to facilitate the transfer of the seven original watercolors painted by Dina Babbitt from the Auschwitz-Birkenau state museum to Dina Babbitt, the rightful owner;

(4) urges the Government of Poland to immediately facilitate the return of the artwork painted by Dina Babbitt from the Auschwitz-Birkenau state museum to Dina Babbitt; and

(5) urges the officials of the Auschwitz-Birkenau state museum to transfer the seven original paintings to Dina Babbitt as expeditiously as possible.

## SENATE RESOLUTION 175—EXPRESSING THE SENSE OF THE SENATE REGARDING UNITED STATES POLICY TOWARD THE NORTH ATLANTIC TREATY ORGANIZATION, IN LIGHT OF THE ALLIANCE'S APRIL 1999 WASHINGTON SUMMIT AND THE CONFLICT IN KOSOVO

Mr. ROTH (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 175

Whereas NATO, the only military alliance with both real defense capabilities and a transatlantic membership, has successfully defended the territory and interests of its members over the last 50 years, prevailed in the Cold War, and continues to make a vital contribution to the promotion and protection of freedom, democracy, stability, and peace throughout Europe;

Whereas NATO enhances the security of the United States by embedding European states in a process of cooperative security planning, by preventing the destabilizing renationalization of European military policies, and by ensuring an ongoing and direct leadership role for the United States in European security affairs;

Whereas the March 12, 1999, accession of Poland, the Czech Republic, and Hungary to NATO has strengthened the Alliance, and is an important step toward a Europe that is truly whole, undivided, free, and at peace;

Whereas extending NATO membership to other qualified European democracies will also strengthen NATO, enhance security and stability, deter potential aggressors, and thereby advance the interests of the United States and its NATO allies;

Whereas the enlargement of NATO, a defensive alliance, threatens no nation and reinforces peace and stability in Europe, and provides benefits to all nations;

Whereas article 10 of the North Atlantic Treaty states that ''any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area'' is eligible to be granted NATO membership;

Whereas Congress has repeatedly endorsed the enlargement of NATO with bipartisan majorities;

Whereas the selection of new members should depend on NATO's strategic interests, potential threats to security and stability, and actions taken by prospective members to complete the transition to democracy and to harmonize policies with the political, economic, and military guidelines established by the 1995 NATO Study on Enlargement;

Whereas the members of NATO face new threats, including conflict in Europe stemming from historic, ethnic, and religious enmities, the potential for the reemergence of a hegemonic power confronting Europe, rogue states and nonstate actors possessing weapons of mass destruction, and threats to the wider interests of the NATO members (including the disruption of the flow of vital resources);

Whereas NATO military force structure, defense planning, command structures, and force goals must be sufficient for the collective self-defense of its members, but also capable of projecting power when the security of a NATO member is threatened, and provide a basis for ad hoc coalitions of willing partners among NATO members;

Whereas this will require that NATO members possess national military capabilities to rapidly deploy forces over long distances, sustain operations for extended periods of time, and operate jointly with the United States in high-intensity conflicts;

Whereas NATO's military operations against the Federal Republic of Yugoslavia (Serbia and Montenegro) in 1999 highlighted the glaring short-comings of European allies in command, control, communication, and intelligence resources; combat aircraft; and munitions, particularly precision-guided munitions; and the overall imbalance between United States and European defense capabilities;

Whereas this imbalance in United States and European defense capabilities undercuts the Alliance's goal of equitable transatlantic burden-sharing;

Whereas NATO is the only institution that promotes a uniquely transatlantic perspective and approach to issues concerning the interests and security of North America and Europe;

Whereas NATO has undertaken great effort to facilitate the emergence of a European Security and Defense Identity within the Alliance, including the identification of NATO's Deputy Supreme Allied Commander as the commander of operations led by the Western European Union (WEU); the creation of a NATO Headquarters for WEU-led operations; the establishment of close linkages between NATO and the WEU, including planning, exercises, and regular consultations; and a framework for the release and return of Alliance assets and capabilities;

Whereas on June 3, 1999, the European Union, in the course of its Cologne Summit, agreed to absorb the functions and structures of the Western European Union, including its command structures and military forces, and established within it the post of High Representative for Common Foreign and Security Policy;

Whereas the member States of the European Union at the Cologne Summit pledged to reinforce their capabilities in intelligence, strategic transport, and command and control; and

Whereas the European Union's decisions at its June 3, 1999 Cologne summit indicate a new determination of European states to develop a European Security and Defense Identity featuring strengthened defense capabilities to address regional conflicts and crisis management: Now, therefore, be it

*Resolved,*

**SECTION 1. UNITED STATES POLICY TOWARD NATO.**

(a) SENSE OF THE SENATE.—The Senate—

(1) regards the political independence and territorial integrity of the emerging democracies in Central and Eastern Europe as vital to European peace and security and, thus, to the interests of the United States;

(2) endorses the commitment of the North Atlantic Council that NATO will remain open to the accession of further members in accordance with Article 10 of the North Atlantic Treaty;

(3) endorses the Alliance's decision to implement the Membership Action Plan as a means to further enhance the readiness of those European democracies seeking NATO membership to bear the responsibilities and burdens of membership;

(4) believes all NATO members should commit to improving their respective defense capabilities so that NATO can project power decisively within and outside NATO borders in a manner that achieves transatlantic parity in power projection capabilities and facilitates equitable burdensharing among NATO members; and

(5) endorses NATO's decision to launch the Defense Capabilities Initiative, intended to improve the defense capabilities of the European Allies, particularly the deployability, mobility, sustainability, and interoperability of these European forces.

(b) FURTHER SENSE OF THE SENATE.—It is further the sense of the Senate that—

(1) the North Atlantic Council should pace, not pause, the process of NATO enlargement by extending an invitation of membership to those states able to meet the guidelines established by the 1995 NATO Study on Enlargement and should do so on a country-by-country basis;

(2) the North Atlantic Council in the course of its December 1999 Ministerial meeting should initiate a formal review of all pending applications for NATO membership in order to establish the degree to which such applications conform to the guidelines for membership established by the 1995 NATO Study on Enlargement;

(3) the results of this formal review should be presented to the membership of the North Atlantic Council in May 2000 with recommendations concerning enlargement;

(4) NATO should assess potential applicants for NATO membership on a continual basis;

(5) the President, the Secretary of State, and the Secretary of Defense should fully use their offices to encourage the NATO allies of the United States to commit the resources necessary to upgrade their capabilities to rapidly deploy forces over long distances, sustain operations for extended periods of time, and operate jointly with the United States in high-intensity conflicts, thus making them effective partners of the United States in supporting mutual interests;

(6) improved European military capabilities, not new institutions, are the key to a vibrant and more influential European Security and Defense Identity within NATO;

(7) NATO should be the primary institution through which European and North American allies address security issues of transatlantic concern;

(8) the European Union must implement its Cologne Summit decisions concerning its Common Foreign and Security Policy in a manner that will ensure that non-WEU NATO allies, including Canada, the Czech Republic, Denmark, Hungary, Iceland, Norway, Poland, Turkey, and the United States, will not be discriminated against, but will be fully involved when the European Union addresses issues affecting their security interests;

(9) the European Union's implementation of the Cologne summit decisions should not promote a strategic perspective on transatlantic security issues that conflicts with that promoted by the North Atlantic Treaty Organization;

(10) the European Union's implementation of its Cologne summit decisions should not promote unnecessary duplication of the resources and capabilities provided by NATO; and

(11) the European Union's implementation of its Cologne summit decisions should not promote a decline in the military resources that European allies contribute to NATO,

but should instead promote the complete fulfillment of their respective force commitments to the Alliance.

## SENATE RESOLUTION 176—EXPRESSING THE APPRECIATION OF THE SENATE FOR THE SERVICE OF UNITED STATES ARMY PERSONNEL WHO LOST THEIR LIVES IN SERVICE OF THEIR COUNTRY IN AN ANTIDRUG MISSION IN COLOMBIA AND EXPRESSING SYMPATHY TO THE FAMILIES AND LOVED ONES OF SUCH PERSONNEL

Mr. HELMS (for himself, Mr. BIDEN, Mr. COVERDELL, Mr. DEWINE, Mr. GRASSLEY, Mr. FRIST, Mr. TORRICELLI, Mr. GRAHAM, Mr. LEAHY, Mr. ASHCROFT, Mr. HUTCHINSON, Mr. LUGAR, Mr. BENNETT, and Mrs. HUTCHISON) submitted the following resolution; which was considered and agreed to:

S. RES. 176

Whereas Colombia is the largest source of cocaine and heroin entering the United States and efforts to assist that country combat the production and trafficking of illicit narcotics is in the national security interests of the United States;

Whereas operations by the United States Armed Forces to assist in the detection and monitoring of illicit production and trafficking of illicit narcotics are important to the security and well-being of all of the people of the United States;

Whereas on July 23, 1999, five United States Army personnel, assigned to the 204th Military Intelligence Battalion at Fort Bliss, Texas, and two Colombia military officials, were killed in a crash during an airborne reconnaissance mission over the mountainous Putumayo province of Colombia; and

Whereas the United States Army has identified Captain José A. Santiago, Captain Jennifer J. Odem, Chief Warrant Officer, W–2, Thomas G. Moore, Private First Class T. Bruce Cluff, and Private First Class Ray E. Krueger as the United States personnel killed in the crash while performing their duty: Now, therefore, be it

*Resolved that the Senate—*

(1) expresses its profound appreciation for the service of Captain José A. Santiago, Captain Jennifer J. Odem, Chief Warrant Officer, W–2, Thomas G. Moore, Private First Class T. Bruce Cluff, and Private First Class Ray E, Krueger, all of the United States Army, who lost their lives in service of their country during an antidrug mission in Colombia;

(2) expresses its sincere sympathy to the families and loved ones of the United States and Colombian personnel killed during that mission;

(3) urges United States and Colombian officials to take all practicable measures to recover the remains of the victims and to fully inform the family members of the circumstances of the accident which cost their lives;

(4) expresses its gratitude to all members of the United States Armed Forces who fight the scourge of illegal drugs and protect the security and well-being of all people of the United States through their detection and monitoring of illicit production and trafficking of illicit narcotics; and

(5) directs that a copy of this resolution be transmitted to the family members of Captain José A. Santiago, Captain Jennifer J. Odem, Chief Warrant Officer, W–2, Thomas G. Moore, Private First Class T. Bruce Cluff, and Private First Class Ray E. Krueger, to the Commander of Fort Bliss, Texas, and to the Secretary of Defense.

## SENATE RESOLUTION 177—DESIGNATING SEPTEMBER, 1999, AS ''NATIONAL ALCOHOL AND DRUG ADDICTION MONTH''

Mr. WELLSTONE submitted the following resolution; which was considered and agreed to:

S. RES. 177

Whereas alcohol and drug addiction is a devastating disease that can destroy lives and communities.

Whereas the direct and indirect costs of alcohol and drug addiction cost the United States more than $246,000,000,000 each year.

Whereas scientific evidence demonstrates the crucial role that treatment plays in restoring those suffering from alcohol and drug addiction to more productive lives.

Whereas the Secretary of Health and Human Services has recognized that 73 percent of people who currently use illicit drugs in the United States are employed and that the effort business invests in substance abuse treatment will be rewarded by raising productivity, quality, and employee morale, and lowering health care costs associated with substance abuse.

Whereas the role of the workplace in overcoming the problem of substance abuse among Americans is recognized by the United States Chamber of Commerce, the Small Business Administration, the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, the Substance Abuse and Mental Health Services Administration, the Community Anti-Drug Coalitions of American, the National Coalition on Alcohol and Other Drug Issues, the National Association of Alcoholism and Drug Abuse Counselors, and the National Substance Abuse Coalition, and others.

Whereas the Director of the Office of National Drug Control Policy has recognized that providing effective drug treatment to those in need is critical to breaking the cycle of drug addiction and to helping those who are addicted become productive members of society.

Whereas these agencies and organizations have recognized the critical role of the workplace in supporting efforts towards recovery from addiction by establishing the theme of Recovery Month to be ''Addiction Treatment: Investing in People for Business Success''.

Whereas the countless numbers of those who have successfully recovered from addition are living proof that people of all races, genders, and ages recover every day from the disease of alcohol and drug addiction, and now make positive contributions to their families, workplaces, communities, States, and nation: Now, therefore, be it

*Resolved,* That the Senate designates September, 1999, as ''National Alcohol and Drug Addiction Recovery Month''.

Mr. WELLSTONE. Mr. President, I rise today to introduce a resolution that I will soon send to the desk to proclaim September, 1999, as ''National Alcohol and Drug Addiction Recovery Month'', and to recognize the Administration, government agencies, and the many groups supporting this effort highlighting the critical role of business and workplace programs in facilitating the recovery efforts of those with this disease.

Alcoholism and drug addition are painful, private struggles with staggering public costs. A recent study prepared by The Lewin Group for the national Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, estimated the total economic cost of alcohol and drug abuse to be approximately $246 billion for 1992. Of this cost, an estimate $98 billion was due to drug addition to illicit drugs and other drugs taken for non-medical purposes. This estimate includes additional treatment and prevention costs, as well as costs associated with related illnesses, reduced job productivity or lost earnings, and other costs to society such as crime and social welfare programs.

People who have the disease of addiction can be found throughout our society. According to he 1997 National Household Survey on Drug Abuse published by SAMHSA, nearly 73 percent of all individuals addicted to drugs in the United States are employed. This number represents 6.7 million full-time workers and 1.6 million part-time workers. In addition to the health problems associated with this disease, there are other serious consequences affecting the workplace, such as lost productivity; high employee turnover; low employee morale; mistakes; accidents; and increased worker's compensation insurance and health insurance premiums—all results of untreated addiction problems. Whether you are a corporate CEO or a small business owner, there are simple, effective steps that can be taken—including providing insurance coverage for this disease, ready access to treatment, and workplace policies that support treatment—to reduce these human and economic costs.

Addiction to alcohol an drug is a disease that affects the brain, the body, and the spirit. We must provide adequate opportunities for the treatment of addiction in order to help those who are suffering and to prevent the health and social problems that it causes, and we know that the costs to do so are very low. A 1999 study by the Rand Corporation found that the cost to managed care health plans is now only about $5 per person per year for unlimited substance abuse treatment benefits to employees of big companies. A 1997 Milliman and Robertson study found that complete substance abuse treatment parity would increase per capita health insurance premiums by only one half of one percent, or less than $1 per member per month—without even considering any of the obvious savings that will result from treatment. Several studies have shown that for every $1 spent on treatment, more than $7 is saved in other health care expenses. These savings are in addition to the financial and other benefits of increased productivity, as well as participation in family and community life. Providing treatment for addiction also saves millions of dollars in the criminal justice system. But for treatment to be effective and helpful throughout our society all systems of

care—including private insurance plans—must share this responsibility.

In observance of Recovery Month, the Secretary of Health and Human Services has recognized that the effort business invests in substance abuse treatment will be rewarded by raising productivity, quality, and employee morale, and lowering health care costs associated with substance abuse. Moreover, the Director of the Office of National Drug Control Policy has recognized that providing effective drug treatment to those in need is critical to breaking the cycle of drug addiction and to helping those who are addicted become productive members of society. The role of the workplace in overcoming the problem of substance abuse among Americans is also recognized by the U.S. Chamber of Commerce, the U.S. Small Business Administration, the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, the Substance Abuse and Mental Health Services Agency, the Community Anti-Drug Coalitions of American, the National Coalition on Alcohol and Other Drug Issues, the National Association of Alcoholism and Drug Abuse Counselors, and the National Substance Abuse Coalition.

It has been shown that some forms of addiction have a genetic basis, and yet we still try to deny the serious medical nature of this disease. We think of those with this disease as somehow different from us. We forget that someone who has a problem with drugs or alcohol can look just like the person we see in the mirror, or the person who is sitting next to us on the subway or at work. We know from the outstanding research conducted at NIH, through the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, that treatment for drug and alcohol addiction can be effective. Through this treatment, there are countless numbers of individuals who are living proof that people of all races, genders, and ages recover every day from the disease of alcohol and drug addiction, and now make positive contributions to their families, workplaces, communities, state, and nation.

I urge the Senate to adopt this resolution designating the month of September, 1999, as Recovery Month, and to take part in the many local and national activities and events recognizing this effort.

## SENATE RESOLUTION 178—DESIGNATING THE WEEK BEGINNING SEPTEMBER 19, 1999, AS ''NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK''

Mr. THURMOND (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. SARBANES, Mr. TORRICELLI, Mr. CLELAND, Mr. HOLLINGS, Mr. ROBB, Mr. FRIST, Mrs. LINCOLN, Mr. THOMPSON, Mr. MACK, Mrs. FEINSTEIN, Mr. ABRAHAM, Mr. LOTT, Mr. SPECTER, Mr. EDWARDS, Mr. COVERDELL, Mr. NICKLES, Mr. SCHUMER, Mr. GRASSLEY, Mr. BROWNBACK, Mr. ASHCROFT, Mr. DODD, Mr. LIEBERMAN, Mr. CRAIG, Mr. LAUTENBERG, Mr. DURBIN, and Mr. SESSIONS): submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 178

Whereas there are 105 historically black colleges and universities in the United States;

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

*Resolved*,

**SECTION 1. DESIGNATION OF "NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK".**

The Senate—

(1) designates the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week''; and

(2) requests that the President of the United States issue a proclamation calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

Mr. THURMOND. Mr. President, I am pleased to rise today to submit a Senate resolution which authorizes and requests the President to designate the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week.''

It is my privilege to sponsor this legislation for the fourteenth time honoring the Historically Black Colleges of our country.

Eight of the 105 Historically Black Colleges, namely Allen University, Benedict College, Claflin College, South Carolina State University, Morris College, Voorhees College, Denmark Technical College and Clinton Junior College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of young people with the opportunity to obtain a college education.

Mr. President, these institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically Black Colleges offer our citizens a variety of curricula and programs through which young people develop skills and talents, thereby expanding opportunities for a lifetime of achievement.

Mr. President, through passage of this Senate Resolution, Congress can reaffirm its support for Historically Black Colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy passage of this Resolution.

## AMENDMENTS SUBMITTED

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

### BURNS AMENDMENT NO. 1563

Mr. GORTON (for Mr. BURNS) proposed an amendment to the bill (H.R. 2466) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes; as follows:

On page 27, line 22, strike ''$1,631,996,000'' and insert ''$1,632,696,000''.

On page 65, line 18, strike ''$37,170,000'' and insert ''$36,470,000''.

### CAMPBELL AMENDMENT NO. 1564

Mr. GORTON (for Mr. CAMPBELL) proposed an amendment to the bill, H.R. 2466, supra; as follows:

page 10, line 15, strike ''$683,519,000'' and insert ''$683,919,000''.

On page 10, line 23, before the colon, insert the following: '', and of which not less than $400,000 shall be available to the United States Fish and Wildlife Service for use in reviewing applications from the State of Colorado under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), and in assisting the State of Colorado by providing resources to develop and administer components of State habitat conservation plans relating to the Preble's meadow jumping mouse''.

On page 65, line 18, strike ''$37,170,000'' and insert ''$36,770,000''.

### DEWINE AMENDMENT NO. 1565

Mr. GORTON (for Mr. DEWINE) proposed an amendment to the bill, H.R. 2466, supra; as follows:

On page 62, between lines 3 and 4, insert the following:

**SEC. 1 FUNDING FOR THE OTTAWA NATIONAL WILDLIFE REFUGE AND CERTAIN PROJECTS IN THE STATE OF OHIO.**

Notwithstanding any other provision of law, from the unobligated balances appropriated for a grant to the State of Ohio for the acquisition of the Howard Farm near Metzger Marsh, Ohio—

(1) $500,000 shall be derived, by transfer and made available for the acquisition of land in the Ottawa National Wildlife Refuge;

(2) $302,000 shall be derived by transfer and made available for the Dayton Aviation Heritage Commission, Ohio; and

(3) $198,000 shall be derived by transfer and made available for a grant to the State of Ohio for the preservation and restoration of the birthplace, boyhood home, and schoolhouse of Ulysses S. Grant.

### LUGAR (AND BAYH) AMENDMENT NO. 1566

Mr. GORTON (for Mr. LUGAR (for himself and Mr. BAYH)) proposed an amendment to the bill, H.R. 2466, supra; as follows:

On page 13, line 8: Strike ''$55,244,000'' and insert $55,944,000''.

On page 65, line 18: Strike ''$37,170,000'' and insert $36,470,000''.

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MACK (AND GRAHAM) AMENDMENT NO. 1567

Mr. GORTON (for Mr. MACK (for himself and Mr. GRAHAM)) proposed an amendment to the bill, H.R. 2466, supra; as follows:

On page 13, line 8, strike ''55,244,000'' and insert ''$54,744,000''.

On page 17, line 19, strike ''$221,093,000'' and insert ''$221,593,000''.

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REID AMENDMENT NO. 1568

Mr. GORTON (for Mr. REID) proposed an amendment to the bill, H.R. 2466, supra; as follows:

On page 10, line 15, strike the figure ''$683,519,000'' and insert in lieu thereof the figure ''$683,669,000'' and on page 20, line 18, strike the figure ''$813,243,000'' and insert in lieu thereof the figure ''$813,093,000''.

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SMITH (AND ASHCROFT) AMENDMENT NO. 1569

Mr. SMITH of New Hampshire (for himself and Mr. ASHCROFT) proposed an amendment to the bill, H.R. 2466, supra; as follows:

On page 94, strike lines 3 through 26.

On page 106, beginning with line 8, strike all through page 107, line 2.

In page 107, lines 3 and 4, strike ''National Endowment for the Arts and the National Endowment for the Humanities are'' and insert ''National Endowment for the Humanities is''.

On page 107, lines 8 and 9, strike ''for the Arts and the National Endowment''.

On page 107, lines 11 and 12, strike ''for the Arts or the National Endowment''.

On page 108, beginning with line 12, strike all through page 110, line 11.

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## NATIONAL OILHEAT RESEARCH ALLIANCE ACT OF 1999

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MURKOWSKI AMENDMENT NO. 1570

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (S. 348) 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; as follows:

On page 6, after line 18, insert the following:

''(15) STATE.—The term ''State'' means the several states, except the State of Alaska.''.

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## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

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TORRICELLI (AND OTHERS) AMENDMENT NO. 1571

(Ordered to lie on the table.)

Mr. TORRICELLI (for himself, Mrs. BOXER, Mr. SCHUMER, Mr. DURBIN, Mr. REID, Mr. MOYNIHAN, and Mr. DODD) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

On page 62, between lines 3 and 4, insert the following:

**SEC. 1 . USE OF TRAPS AND SNARES IN NATIONAL WILDLIFE REFUGES.**

None of the funds made available in this Act may be used to authorize, permit, administer, or promote the use of any jawed leghold trap or neck snare in any unit of the National Wildlife Refuge System, except for the purpose of research, subsistence, conservation, or facilities protection.

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TORRICELLI (AND OTHERS) AMENDMENT NO. 1572

(Ordered to lie on this table.)

Mr. TORRICELLI (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. REED) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra, as follows:

On page 16, line 25, strike ''$49,951,000'' and insert ''$53,951,000, of which not less than $4,000,000 shall be available to carry out the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.)''.

On page 35, line 18, strike ''$5,580,000'' and insert ''$1,580,000''.

On page 35, line 22, strike ''$5,420,000'' and insert ''$9,420,000''.

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TORRICELLI (AND OTHERS) AMENDMENTS NOS. 1573–1574

(Ordered to lie on the table.)

Mr. TORRICELLI (for himself, Mr. WARNER, and Mr. ROBB) submitted two amendments intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

AMENDMENT NO. 1573

On page 3, line 18, strike ''$287,305,000'' and insert ''$285,305,000''.

On page 18, line 16, strike ''$84,525,000'' and insert ''$86,525,000''.

On page 18, line 19, before the period, insert the following: '', and of which not less than $4,000,000 shall be available for the Fredericksburg and Spotsylvania National Military Park''.

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AMENDMENT NO. 1574

On page 18, line 16, strike ''$84,525,000'' and insert ''$86,525,000''.

On 18, line 19, before the period, insert the following: '', and of which not less than $4,000,000 shall be available for the Fredericksburg and Spotsylvania National Military Park''.

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JOHNSON (AND OTHERS) AMENDMENT NO. 1575

(Ordered to lie on the table.)

Mr. JOHNSON (for himself, Mr. BURNS, Mr. CAMPBELL, Mr. CONRAD, Mr. BAUCUS, Mr. KOHL, Mr. WELLSTONE, Mr. BINGAMAN, Mr. KERREY, Mr. MCCAIN, Mr. DORGAN, and Mr. DASCHLE) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . (a) In addition to any amounts otherwise made available under this title to carry out the Tribally Controlled College or University Assistance Act of 1978, $6,400,000 is appropriated to carry out such Act for fiscal year 2000.

(b)(1) Notwithstanding any other provision of this Act, except as provided in paragraph (2), the amount of funds provided to a Federal agency that receives appropriations under this Act in an amount greater than $20,000,000 shall be reduced, on a pro rata basis, by an amount equal to the percentage necessary to achieve an aggregate reduction of $6,400,000 in funds provided to all such agencies under this Act. Each head of a Federal agency that is subject to a reduction under this subsection shall ensure that the reduction in funding to the agency resulting from this subsection is offset by a reduction in travel expenditures of the agency.

(2) A reduction may not be made under paragraph (1) if that reduction would result in an agency being incapacitated to the extent that the agency could not fulfill a statutory function.

(c) Not later than 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing, by accounts, of the amount of each reduction made under subsection (b).

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McCAIN AMENDMENT NO. 1576

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) IN GENERAL.—The Disabled Veterans' LIFE Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor disabled American veterans who have served in the Armed Forces of the United States.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial authorized by subsection (a) shall be in accordance with the Act entitled ''An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes'', approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(c) PAYMENT OF EXPENSES.—The Disabled Veterans' LIFE Memorial Foundation shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial authorized by subsection (a). No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial authorized by subsection (a) (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in subsection (b)), or upon expiration of the authority for the memorial under section 10(b) of such Act, there remains a balance of funds received for the establishment of the memorial, the Disabled Veterans' LIFE Memorial Foundation shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act.

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GRAHAM (AND OTHERS) AMENDMENT NO. 1577

(Ordered to lie on the table.)

Mr. GRAHAM (for himself, Mr. ENZI, Mr. BRYAN, Mr. REID, Mr. VOINOVICH, Mr. GRAMS, Mr. LUGAR, and Mr. SESSIONS) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

At the appropriate place, insert the following:

**SEC. . PROHIBITION ON CLASS III GAMING PROCEDURES.**

No funds made available under this Act may be expended to implement the final rule published on April 12, 1999, at 64 Fed. Reg. 17535.

## SHELBY AMENDMENT NO. 1578

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

On page 62, between lines 3 and 4, insert the following:

**SEC. 1 . PILOT WILDLIFE DATA SYSTEM.**

From funds made available by this Act, the Secretary of the Interior shall use $3,000,000 to develop a pilot wildlife data system to provide statistical data relating to wildlife management and control in the State of Alabama.

## McCAIN AMENDMENT NO. 1579

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ____. (a) STUDY.—The Secretary of the Interior and the Secretary of Defense shall, using any funds appropriated for the Department of the Interior by this Act, carry out a study of measures to improve the management of the Federal lands in Arizona constituting the Barry M. Goldwater Range (as described in section 1(c) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606)) and the Organ Pipe National Monument, but not the Federal lands in Arizona constituting the Cabeza Prieta National Wildlife Refuge.

(b) ELEMENTS OF STUDY.—In carrying out the study under subsection (a), the Secretary of the Interior and the Secretary of Defense shall—

(1) assess the feasibility and practicability of the establishment in all or parts of the Federal lands covered by subsection (a) of a national park or national preserve;

(2) assess the feasibility and practicability of any improvements in the management of such Federal lands that may be proposed as part of the study, including protection of such Federal lands by designation as wilderness, wildlife refuge, or national conservation area; and

(3) develop recommendations for actions for the management of such Federal lands that, if implemented, would both—

(A) provide for the conservation and protection of archaeological, cultural, geological, historical, biological, scientific, scenic, wilderness, recreational, and wildlife values of the Sonoran Desert; and

(B) contribute in appropriate manner to the furtherance of the national defense.

(c) CONTRIBUTIONS OF OTHER AGENCIES AND ENTITIES.—In carrying out the study under subsection (a), the Secretary of Interior and the Secretary of the Defense shall jointly work with appropriate Federal and State agencies having an interest or expertise in the matters covered by the study, as well as private entities having an interest or expertise in such matters.

(d) PUBLIC MEETINGS AND CONTRIBUTIONS.—The Secretary of the Interior and the Secretary of Defense shall provide for a reasonable opportunity for public hearings and meetings on the study under subsection (a), as well as public comment on draft versions of the report on the study under subsection (e).

(e) REPORT.—Not later than December 31, 2001, the Secretary of the Interior and the Secretary of Defense shall jointly submit to Congress a report on the study under subsection (a). The report shall include the results of the study and incorporate any public comments on the study under subsection (d).

## DURBIN AMENDMENTS NOS. 1580–1581

(Ordered to lie on the table.)

Mr. DURBIN submitted two amendments intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

On page 2, line 13, strike ''$634,321,000'' and insert ''$634,821,000''.

On page 3, line 6, strike ''$634,321,000'' and insert ''$634,821,000''.

On page 3, line 18, strike ''$287,305,000'' and insert ''$286,405,000''.

On page 52, strike lines 16 through 24 and insert the following:

**SEC. 117. PROCESSING OF GRAZING PERMITS AND LEASES.**

(a) SCHEDULE.—

(1) IN GENERAL.—The Bureau of Land Management shall establish and adhere to a schedule for completion of processing of all grazing permits and leases that expire in fiscal year 1999, 2000, or 2001.

(2) REQUIREMENTS.—The schedule shall provide for the completion of processing of the grazing permits and leases in compliance with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), not later than September 30, 2001.

(b) REQUIRED RENEWAL.—Each grazing permit or lease described in subsection (a)(1) shall be deemed to be renewed until the earlier of—

(1) September 30, 2001; or

(2) the date on which the Bureau completes processing of the grazing permit or lease in compliance with all applicable laws.

(c) TERMS AND CONDITIONS OF RENEWALS.—

(1) BEFORE COMPLETION OF PROCESSING.—Renewal of a grazing permit or lease under subsection (b)(1) shall be on the same terms and conditions as provided in the expiring grazing permit or lease.

(2) UPON COMPLETION OF PROCESSING.—Upon completion of processing of a grazing permit or lease described in subsection (a)(1), the Bureau may—

(A) modify the terms and conditions of the grazing permit or lease; and

(B) reissue the grazing permit or lease for a term not to exceed 10 years.

(d) EFFECT ON OTHER AUTHORITY.—Except as specifically provided in this section, nothing in this section affects the authority of the Bureau to modify or terminate any grazing permit or lease.

## INOUYE (AND OTHERS) AMENDMENT NO. 1582

(Ordered to lie on the table.)

Mr. INOUYE (for himself, Mr. CLELAND, Mr. LEVIN, and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

On page 3, line 18, strike ''$287,305,000'' and insert ''$283,805,000''.

On page 17, line 19, strike ''$221,093,000'' and insert ''$224,593,000''.

On page 17, line 22, before the colon, insert the following: '', and of which not less than $3,500,000 shall be available for modifications to the Franklin Delano Roosevelt Memorial''.

## ROBB (AND OTHERS) AMENDMENT NO. 1583

(Ordered to lie on the table.)

Mr. ROBB (for himself, Mr. CLELAND, Mrs. BOXER, Mr. TORRICELLI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

Beginning on page 116, strike line 8 and all that follows through line 21.

## BINGAMAN AMENDMENTS NOS. 1584–1585

(Ordered to lie on the table.)

Mr. BINGAMAN submitted two amendments intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

AMENDMENT NO. 1584

At the appropriate place, insert the following new section:

**SEC. . YOUTH CONSERVATION CORPS AND RELATED PARTNERSHIPS.**

(a) Notwithstanding any other provision of this Act, there shall be available for high priority projects which shall be carried out by the Youth Conservation Corps as authorized by Public Law 91–378, or related partnerships with non-Federal youth conservation corps or entities such as the Student Conservation Association, the following amounts in order to increase the number of summer jobs available for youth, ages 15 through 22, on Federal lands:

(1) $4,000,000 of the funds available to the United States Fish and Wildlife Service for Resource Management under this Act;

(2) $4,000,000 of the funds available to the National Park Service for Operation of the National Park System under this Act;

(3) $4,000,000 of the funds available to the Forest Service under this Act; and

(4) $3,000,000 of the funds available to the Bureau of Land Management under this Act.

(b) Within six months after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall jointly submit a report to the House and Senate Committees on Appropriations and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives that includes the following:

(i) the number of youth, ages 15 through 22, employed during the summer of 1999, and the number estimated to be employed during the summer of 2000, through the Youth Conservation Corps, the Public Land Corps, or a related partnership with a State, local, or nonprofit youth conservation corps or other entity such as the Student Conservation Association;

(ii) a description of the different types of work accomplished by youth during the summer of 1999;

(iii) identification of any problems that prevent or limit the use of the Youth Conservation Corps, the Public Land Corps, or related partnerships to accomplish projects described in subsection (a); and

(iv) recommendations to improve the use and effectiveness of partnerships described in subsection (a); and

(v) an analysis of the maintenance backlog that identifies the types of projects that the Youth Conservation Corps, the Public Land Corps, or related partnerships are qualified to complete.

AMENDMENT NO. 1585

On page 27, line 22, strike ''$1,631,996,000'' and insert ''$1,632,896,000''.

On page 29, line 10, after ''2002'' insert '': *Provided further*, That from amounts appropriated under this heading $5,722,000 shall be

made available to the Southwestern Indian Polytechnic Institute''.

On page 62, between lines 3 and 4, insert the following:

**SEC. ___. BIA POST SECONDARY SCHOOLS FUNDING FORMULA.**

(a) IN GENERAL.—Any funds appropriated for Bureau of Indian Affairs Operations for Central Office Operations for Post Secondary Schools for any fiscal year that exceed the amount appropriated for the schools for fiscal year 2000 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Post Secondary Funding Formula adopted by the Office of Indian Education Programs and the schools on May 13, 1999.

(b) APPLICABILITY.—This section shall apply for fiscal year 2000 and each succeeding fiscal year.

## BRYAN AMENDMENT NO. 1586

(Ordered to lie on the table.)

Mr. BRYAN submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

At the appropriate place, add the following new section:

**''SEC. . CONVEYANCE OF CERTAIN BUREAU OF LAND MANAGEMENT LANDS IN CARSON CITY, NEVADA.**

(a) CONVEYANCE.—Not later than 120 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall convey to the City of Carson City, Nevada, without consideration, all right, title, and interest of the United States in the property described as Government lot 1 in sec. 8, T. 15 N., R. 20 E., Mount Diablo Meridian, as shown on the Bureau of Land Management official plat approved October 28, 1996, containing 4.48 acres, more or less, and assorted uninhabitable buildings and improvements.

(b) USE.—the conveyance of the property under subsection (a) shall be subject to reversion to the United States if the property is used for a purpose other than the purpose of a senior assisted living center or a related public purpose.

## BRYAN (AND REID) AMENDMENT NO. 1587

(Ordered to lie on the table.)

Mr. BRYAN (for himself and Mr. REID) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows;

At the appropriate place, add the following new section:

**SEC. . LIMITATION.**

No funds appropriated under this Act shall be expended to implement sound thresholds or standards in the Grand Canyon National Park until 90 days after the National Park Service has provided to Congress a report describing (1) the reasonable scientific basis for such sound thresholds or standard and (2) the peer review process used to validate such sound thresholds or standard.

## BRYAN (AND OTHERS) AMENDMENT NO. 1588

(Ordered to lie on the table.)

Mr. BRYAN (for himself, Mr. FITZGERALD, Mr. DURBIN, and Mr. REID) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

On page 63, beginning on line 1, strike ''$1,239,051,000'' and all that follows through line 6 and insert ''$1,216,351,000 (which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965 in accordance with section 4(i) of that Act (16 U.S.C. 4601–6a(i))), to remain available until expended, of which $33,697,000 shall be available for wildlife habitat management, $22,132,000 shall be available for inland fish habitat management, $24,314,000 shall be available for anadromous fish habitat management, $29,548,000 shall be available for threatened, endangered, and sensitive species habitat management, and $196,885,000 shall be available for timber sales management.''.

On page 64, line 17, strike ''$362,095,000'' and insert ''$371,795,000''.

On page 64, line 22, strike ''205:'' and insert ''205, of which $86,909,000 shall be available for road construction (of which not more than $37,400,000 shall be available for engineering support for the timber program) and $122,484,000 shall be available for road maintenance:''.

## REID AMENDMENT NO. 1589

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

On page 110, strike lines 17–25.

On page 111, strike lines 1–5.

## KOHL AMENDMENT NO. 1590

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

Following the last proviso in the ''Construction'' account of the Bureau of Indian Affairs, insert the following: ''*Provided further*, That in return for a quit claim deed to a school building on the Lac Courte Oreilles Ojibwe Indian Reservation, the Secretary shall pay to U.K. development, LLC the amount of $375.000''.

## DURBIN AMENDMENT NO. 1591

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

On page 52, strike lines 16 through 24 and insert the following:

**''SEC. 117. PROCESSING OF GRAZING PERMITS AND LEASES.**

''(a) SCHEDULE.—''

''(1) IN GENERAL.—The Bureau of Land Management shall establish and adhere to a schedule for completion of processing of all grazing permits and leases that have expired in fiscal year 1999 or which expire in fiscal years 2000 and 2001.

''(2) REQUIREMENTS.—The schedule shall provide for the completion of processing of the grazing permits and leases in compliance with all applicable laws, including the National environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), not later than September 30, 2001.

''(b) REQUIRED RENEWAL.—Each grazing permit or lease described in subsection (a)(1) shall be deemed to be renewed until the earlier of—

''(1) September 30, 2001; or

''(2) the date on which the Bureau completes processing of the grazing permit or lease in compliance with all applicable laws.

''(c) TERMS AND CONDITIONS OF RENEWALS.—

''(1) BEFORE COMPLETION OF PROCESSING.—Renewal of a grazing permit or lease under subsection (b)(1) shall be on the same terms and conditions as provided in the expiring grazing permit or lease.

''(2) UPON COMPLETION OF PROCESSING.—Upon completion of processing of a grazing permit or lease described in subsection (a)(1), the Bureau may—

''(A) modify the terms and conditions of the grazing permit or lease; and

''(B) reissue the grazing permit or lease for a term not to exceed 10 years.

''(d) CONSIDERATION OF PERMIT OR LEASE TRANSFERS.—(1) during fiscal years 2000 and 2001, an application to transfer a grazing permit or lease to an otherwise qualified applicant shall be approved on the same terms and conditions as provided in the permit or lease being transferred, for a duration no longer than the permit or lease being transferred, unless processing under all applicable laws has been completed.

''(2) Upon completion of processing, the Bureau may—

''(A) modify the terms and conditions of the grazing permit or lease; and''(B) reissue the grazing permit or lease for a term not to exceed 10 years.

''(e) EFFECT ON OTHER AUTHORITY.—Except as specifically provided in this section, nothing in this section affects the authority of the Bureau of modify or terminate any grazing permit or lease.''

## EDWARDS AMENDMENT NO. 1592

(Ordered to lie on the table.)

Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

On page 65, line 18, strike '$37,170,000' and insert '$40,170,000'.

On page 63 line 1, strike '$1,239,051,000' and insert '$1,236,051,000'.

## STEVENS AMENDMENT NO. 1593

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

At the appropriate place insert the following new section:

''SEC. . Notwithstanding any other provision of law, the Secretary of the Interior shall use any funds previously appropriated for the Department of the Interior for Fiscal Year 1998 for acquisition of lands to acquire land from the Borough of Haines, Alaska for subsequent conveyance to settle claims filed against the United States with respect to land in the Borough of Haines prior to January 1, 1999: *Provided further*, That the Secretary of the Interior shall not convey lands acquired pursuant to this section unless and until a signed release of claims is executed.''

## WARNER AMENDMENT NO. 1594

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

At the end, add the following: ''From amounts appropriated under this Act for the National Endowment for the Arts the Chairperson of the Endowment shall make available $250,000 to the Institute of Museum and Library Services, and from amounts appropriated under this Act for the National Endowment of the Humanities the Chairperson of the Endowment shall make available $250,000 to the Institute of Museum and Library Services.

## CAMPBELL AMENDMENT NO. 1595

(Ordered to lie on the table.)

Mr. CAMPBELL submitted an amendment intended to be proposed by

him to the bill, H.R. 2466, supra; as follows:

On page 76, between lines 18 and 19, insert the following:

The Forest Service shall use appropriations or other funds available to the Service to—

(1) improve the control or eradication of the pine beetles in the Rocky Mountain region of the United States; and

(2)(A) conduct a study of the causes and effects of, and solutions for, the infestation of pine beetles in the Rocky Mountain region of the United States; and

(B) submit to Congress a report on the results of the study, within 6 months of the date of enactment of this provision.

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ABRAHAM (AND OTHERS) AMENDMENT NO. 1595

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. HATCH, Mr. THOMAS, Mr. GRAMS, and Mr. CRAIG) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

On page 2, line 13, strike ''$634,321,000'' and insert ''$632,321,000''.

On page 2, line 14, after ''expended,'', insert the following: ''of which not more than $155,351,000 shall be available for land resources; and''.

On page 5, line 13, strike ''$130,000,000,'' and insert ''$150,000,000, of which $1,500,000 shall be derived from pro rata transfers from each account in which funds are made available for National Park Service personnel travel, and''.

On page 10, line 15, strike ''$683,519,000'' and insert ''$678,519,000''.

On page 10, line 16, after ''herein,'', insert the following: ''of which not more than $37,245,000 shall be available for refuges and wildlife law enforcement operations, and''.

On page 16, line 12, strike ''$1,355,176,000,'' and insert ''$1,354,176,000, of which not more than $246,905,000 shall be available for park management resource stewardship,''.

On page 20, line 18, strike ''$813,243,000,'' and insert ''$810,243,000, of which not more than $37,647,000 shall be available for earth science information management and delivery; of which not more than $244,734,000 shall be available for geologic hazards, resource, and processes; and''.

On page 23, line 10, strike ''$110,682,000'' and insert ''$108,682,000''.

On page 23, line 11, strike ''$84,569,000'' and insert ''$82,569,000''.

On page 23, line 12, before the semicolon, insert the following: '', and not more than $40,439,000 shall be available for royalty management compliance''.

On page 24, line 24, strike ''$95,891,000'' and insert ''$94,291,000, of which not more than $70,618,000 shall be available for environmental protection''.

On page 37, line 14, strike ''$62,203,000'' and insert ''$61,203,000''.

On page 37, line 23, strike ''$36,784,000'' and insert ''$35,784,000''.

On page 63, line 1, strike ''$1,239,051,000'' and insert ''$1,237,051,000''.

On page 63, strike line 6 and insert ''6a(i)), of which not more than $3,000,000 shall be available for forest ecosystem restoration and improvement''.

On page 77, line 16, strike ''$390,975,000'' and insert ''$389,975,000''.

On page 78, line 16, strike ''$682,817,000'' and insert ''$678,817,000''.

On page 78, line 17, after ''expended,'', insert the following: ''of which not more than $46,650,000 shall be available for equipment, materials, and tools, and of which not more than $205,660,000 shall be available for transportation, and''.

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COCHRAN (AND OTHERS) AMENDMENT NO. 1597

(Ordered to lie on the table.)

Mr. COCHRAN (for himself, Mr. DORGAN, Mr. JEFFORDS, Mr. KENNEDY, Mr. INOUYE, Mr. CHAFEE, and Mr. DODD) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

On page 95, line 5 strike ''$97,550,000'' and insert ''$101,000,000''.

On page 95, line 13, strike ''$14,150,000'' and insert ''$14,700,000''.

On page 95, line 14, strike ''$10,150,000'' and insert ''$10,700,000''.

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MURKOWSKI (AND OTHERS) AMENDMENT NO. 1598

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself, Mr. LAUTENBERG, Mrs. BOXER, Mr. ROTH, Mr. DODD, Ms. LANDRIEU, Mr. CHAFEE, Mr. SESSIONS, Mrs. LINCOLN, Mr. LEAHY, Mr. KERRY, Mr. FEINGOLD, Mr. FRIST, Mr. GRAHAM, Ms. COLLINS, Mr. SMITH of New Hampshire, Mr. GREGG, Mr. MOYNIHAN, Mr. WARNER, Mr. BAYH, Mr. MCCAIN, Mr. AKAKA, Mrs. FEINSTEIN, Mr. HAGEL, Mr. JEFFORDS, Mr. KOHL, and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

On page 2, lines 13 and 14, strike ''634,321,000, to remain available until expended,'' and insert ''$629,321,000, to remain available until expended, of which $14,130,000 shall be available for land and resource information systems,''.

On page 3, line 6, strike ''$634,321,000'' and insert ''$629,321,000''.

On page 18, line 19, strike ''program.'' and insert ''program, and $30,000,000 shall be available to provide financial assistance to States (of which $7,000,000 shall be derived by transfer from unobligated balances in the Fossil Energy Research and Development account of the Department of Energy).''

On page 20, line 18, strike ''$813,243,000'' and insert ''$806,243,000''.

On page 23, line 10, strike $110,682,000'' and insert ''$109,682,000''.

On page 23, line 21, strike ''1993:'' and insert ''1993, of which $33,286,000 shall be available for general administration:''.

On page 62, line 9, strike ''$187,444,000'' and insert ''$182,444,000''.

On page 78, line 16, strike ''$682,817,000'' and insert ''$677,817,000''.

On page 78, line 19, strike ''account:'' and insert ''account, of which $202,160,000 shall be available for transportation:''.

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MURKOWSKI AMENDMENT NO. 1599

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

On page 16, line 12, strike ''$1,355,176,000'' and insert ''$1,353,449,000''.

On page 17, line 19, strike ''$221,093,000, to remain available until expended'' and insert ''$222,593,000 to remain available until expended, of which $1,500,000 shall be used to conduct appropriate environmental studies on a new railroad access route within Denali National Park and Preserve along the general route of the Stampede Trail. The railroad corridor shall run from the State of Alaska Right-of-Way known as 'the North Park Boundary to Kantishna Road—as created by Executive Order #2665, dated October 16, 195* to the eastern boundary of Denali National Park and Preserve where it adjoins State of Alaska Lands in T 12 S, R 12 W and T 13 S, R 12 W Fairbanks Meridian, and''.

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MURKOWSKI (AND OTHERS) AMENDMENT NO. 1600

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself, Mr. CAMPBELL, Mr. INOUYE, and Mr. JOHNSON) submitted an amendment intended to be proposed by them to the bill; H.R. 2466, supra; as follows:

At the appropriate place insert the following new section:

None of the funds provided in this Act shall be available to the Department of Interior to deploy the Trust Asset and Accounting Management System (TAAMS) in any Bureau of Indian Affairs Area Office, with the exception of the Billings Area Office, until 45 days after the Secretary of Interior certifies in writing to the Committee on Appropriations and the Committee on Indian Affairs that, based on the Secretary's review and analysis, such system meets the TAAMS contract requirements and the needs of the system's customers including the Bureau of Indian Affairs, the Office of Special Trustee for American Indians and affected tribes and individual Indians.

The Secretary shall certify that the following items have been completed in accordance with generally accepted guidelines for system development and acquisition and indicate the source of those guidelines: design and functional requirements; legacy data conversion and use; system acceptance and user acceptance tests; project management functions such as deployment and implementation planning, risk management, quality assurance, configuration management, and independent *verification* and validation activities. The General Accounting Office shall provide an independent assessment of the Secretary's certification within 15 days of the Secretary's certification.

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MURKOWSKI AMENDMENT NO. 1601

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

At the appropriate place in the bill, insert the following:

''SEC. . None of the funds appropriated or otherwise made available in this Act or any other provision of law, may be used by any officer, employee, department or agency of the United States to impose or require payment of an inspection fee in connection with the import or export of shipments of fur-bearing wildlife containing 1000 or fewer raw, crusted, salted or tanned hides or fur skins, or separate parts thereof, including species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora done at Washington March 3, 1973 (27 UST 1027).''

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STEVENS AMENDMENT NO. 1602

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

S. 1292 is amended by the following:

On page 17, line 19, strike ''$221,093,000'' and insert in lieu thereof ''$218,153,000''.

On page 82, line 13, strike ''$2,135,561,000'' and insert in lieu thereof ''$2,138,005,400''.

On page 90, line 3, strike ''$364,562,000'' and insert in lieu thereof ''$369,562,000''.

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## HUTCHISON (AND OTHERS) AMENDMENT NO. 1603

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself, Mr DOMENICI, Mr. LOTT, Mr. BREAUX, Mr. MURKOWSKI, Ms. LANDRIEU) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follow:

On page 62, between lines 3 and 4, insert the following:

**SEC. 1 . VALUATION OF CRUDE OIL FOR ROYALTY PURPOSES.**

None of the funds made available by this Act shall be used to issue a notice of final rulemaking with respect to the valuation of crude oil for royalty purposes (including a rulemaking derived from proposed rules published at 62 Fed. Reg. 3742 (January 24, 1997), 62 Fed. Reg. 36030 (July 3, 1997), and 63 Fed. Reg. 6113 (1998)) until September 30, 2000.

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## SESSIONS AMENDMENT NO. 1604

(Ordered to lie on the table.)

Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

On page 16, line 12, after ''of which'', insert the following: ''not less than $3,100,000 shall be used for operation of the Rosa Parks Library and Museum in Montgomery Alabama, of which''.

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## LEVIN AMENDMENTS NOS. 1605–1606

(Ordered to lie on the table.)

Mr. LEVIN submitted two amendments intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

AMENDMENT NO. 1605

On page 18, line 16, strike ''$84,525,000'' and insert ''$85,075,000''.

On page 18, line 18, after ''expended,'' insert the following: ''of which not less than $550,000 shall be available for acquisition of property in Sleeping Bear Dunes National Lakeshore, Michigan, and''.

On page 20, line 18, strike ''$813,243,000'' and insert ''$812,693,000''

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AMENDMENT NO. 1606

On page 17, line 22, before the colon, insert the following: '',and of which not less than $2,450,000 shall be available for the acquisition of properties in Keweenaw National Historical Park, Michigan''.

On page 18, line 16, strike ''$84,525,000'' and insert ''$86,975,000''.

On page 20, line 18, strike $813,243,000 and insert $810,743,000

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## ROBB (AND OTHERS) AMENDMENT NO. 1607

(Ordered to lie on the table)

Mr. ROBB (for himself, Mr. CLELAND, and Ms. BOXER) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

Beginning on page 116, strike line 8 and all that follows through line 21.

## AUTHORIZING CONSTRUCTION AND OTHER WORK ON THE CAPITOL GROUNDS

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## MCCONNELL AMENDMENT NO. 1608

Mr. GORTON (for Mr. MCCONNELL) proposed an amendment to the concurrent resolution (H. Con. Res. 167) authorizing the Architect of the Capitol to permit temporary construction and other work on the Capitol Grounds that may be necessary for construction of a building on Constitution Avenue Northwest, between 2nd Street Northwest and Louisiana Avenue Northwest; as follows:

At the appropriate place:

Page 1, line 4, delete all through line 7 on page 2 and insert the following:

''The Architect of the Capitol may permit temporary construction and other work on the Capitol Grounds as follows:

''(a) As may be necessary for the demolition of the existing building of the Carpenters and Joiners of America and the construction of a new building of the Carpenters and Joiners of America on Constitution Avenue Northwest between 2nd Street Northwest and Louisiana Avenue Northwest in a manner consistent with the terms of this resolution. Such work may include activities resulting in temporary obstruction of the curbside parking lane on Louisiana Avenue Northwest between Constitution Avenue Northwest and 1st Street Northwest, adjacent to the side of the existing building of the Carpenters and Joiners of America on Louisiana Avenue Northwest. Such obstruction:

''(i) shall be consistent with the terms of subsections (b) and (c) below;

''(ii) shall not extend in width more than 8 feet from the curb adjacent to the existing building of the Carpenters and Joiners of America; and

''(iii) shall extend in length along the curb of Louisiana Avenue Northwest adjacent to the existing building of the Carpenters and Joiners of America, from a point 56 feet from the intersection of the curbs of Constitution Avenue Northwest and Louisiana Avenue Northwest adjacent to the existing building of Carpenters and Joiners of America to a point to 40 feet from the intersection of the curbs of the Louisiana Avenue Northwest and 1st Street Northewst adjacent to the existing building of the Carpenter and Joiners of America .

''(b) Such construction shall include a covered walkway for pedestrian access, including access for disabled individuals, on Constitution Avenue Northwest between 2nd Street Northwest and Louisiana Avenue Northwest, to be constructed within the existing sidewalk area on Constitution Avenue Northwest adjacent to the existing building of the Carpenters and Joiners of America, to be constructed in accordance with specifications approved by the Architect of the Capitol.

''(c) Such construction shall ensure access to any existing fire hydrants by keeping clear a minimum radius of 3 feet around any fire hydrants, or according to health and safety requirements as approved by the Architect of the Capitol.''

On page 3, line 4, add the following new subsection:

''(c) No construction shall extend into the United States Capitol Grounds except as otherwise provided in section 1''.

## ANTICYBERSQUATTING CONSUMER PROTECTION ACT

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## HATCH (AND LEAHY) AMENDMENT NO. 1609

Mr. BROWNBACK (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill (S. 1255) to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes; as follows:

On page 10, line 4, beginning with ''to'' strike all through the comma on line 7 and insert ''or confusingly similar to a trademark or service mark of another that is distinctive at the time of the registration of the domain name, or dilutive of a famous trademark or service mark of another that is famous at the time of the registration of the domain name,''.

On page 11, strike lines 5 through 12 and insert the following:

''(d)(1)(A) A person shall be liable in a civil action by the owner of a trademark or service mark if, without regard to the goods or services of the parties, that person—

''(i) has a bad faith intent to profit from that trademark or service mark; and

''(ii) registers, traffics in, or uses a domain name that—

''(I) in the case of a trademark or service mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to such mark; or

''(II) in the case of a famous trademark or service mark that is famous at the time of registration of the domain name, is dilutive of such mark.

On page 12, line 19, strike all beginning with ''to'' through the comma on line 22 and insert ''or confusingly similar to trademarks or service marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous trademarks or service marks of others that are famous at the time of registration of such domain names,''.

On page 13, insert between lines 3 and 4 the following:

''(D) A use of a domain name described under subparagraph (A) shall be limited to a use of the domain name by the domain name registrant or the domain name registrant's authorized licensee.

On page 16, line 24, strike the quotation marks and the second period.

On page 16, add after line 24 the following:

''(v) A domain name registrant whose domain name has been suspended, disabled, or transferred under a policy described under clause (ii)(II) may, upon notice to the mark owner, file a civil action to establish that the registration or use of the domain name by such registrant is not unlawful under this Act. The court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name to the domain name registrant.''.

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## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

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## HATCH AMENDMENT NO. 1610

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill, H.R. 2466, supra; as follows:

At the appropriate place insert the following:

**SEC. . LAKE POWELL.**

No funds appropriated for the Department of the Interior by this Act or any other Act shall be used to study or implement any plan to drain Lake Powell or to reduce the water level of the lake below the range of water levels required for the operation of the Glen Canyon Dam.

## HATCH (AND BINGAMAN) AMENDMENT NO. 1611

(Ordered to lie on the table.)

Mr. HATCH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

On page 11, line 10, insert after ''enforcement,'' the following: ''of which not less than $250,000 shall be used, on authorization by Congress, to construct a new interpretive center and related visitor facilities at the Four Corners Monument Tribal Park, in the States of Utah, Colorado, New Mexico, and Arizona, and''.

## COLLINS AMENDMENTS NOS. 1612–1613

(Ordered to lie on the table.)

Mrs. COLLINS submitted two amendments intended to be proposed by her to the bill, H.R. 2466, supra; as follows:

AMENDMENT NO. 1612

On page 16, line 12, strike ''$1,355,176,000'' and insert ''$1,355,086,000''.

On page 16, line 25, strike ''$49,951,000:'' and insert ''$50,041,000, of which $90,000 shall be available for planning and development of interpretive sites for the quadricentennial commemoration of the Saint Croix Island International Historic Site, Maine:''

AMENDMENT NO. 1613

On page 62, between lines 3 and 4, insert the following:

**SEC. 1___. QUADRICENTENNIAL COMMEMORATION OF THE SAINT CROIX ISLAND INTERNATIONAL HISTORIC SITE.**

(a) FINDINGS.—Congress finds that—

(1) in 1604, 1 of the first European colonization efforts was attempted at St. Croix Island in Calais, Maine;

(2) St. Croix Island settlement predated both the Jamestown and Plymouth colonies;

(3) St. Croix Island offers a rare opportunity to preserve and interpret early interactions between European explorers and colonists and Native Americans;

(4) St. Croix Island is 1 of only 2 international historic sites comprised of land administered by the National Park Service;

(5) the quadricentennial commemorative celebration honoring the importance of the St. Croix Island settlement to the countries and people of both Canada and the United States is rapidly approaching;

(6) the 1998 National Park Service management plans and long-range interpretive plan call for enhancing visitor facilities at both Red Beach and downtown Calais;

(7) in 1982, the Department of Interior and Canadian Department of the Environment signed a memorandum of understanding to recognize the international significance of St. Croix Island and, in an amendment memorandum, agreed to conduct joint strategic planning for the international commemoration with a special focus on the 400th anniversary of settlement in 2004;

(8) the Department of Canadian Heritage has installed extensive interpretive sites on the Canadian side of the border; and

(9) current facilities at Red Beach and Calais are extremely limited or nonexistent for a site of this historic and cultural importance.

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

(1) using funds made available by this Act, the National Park Service should expeditiously pursue planning and compliance for exhibits at Red Beach and the town of Calais, Maine; and

(2) the National Park Service should take what steps are necessary, including consulting with the people of Calais, to ensure that appropriate exhibits at Red Beach and the town of Calais are completed by 2004.

## BOXER AMENDMENT NO. 1614

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment intended to be proposed by her to the bill, H.R. 2466, supra; as follows:

On page 17, line 21, strike ''$42,412,000'' and insert ''$852,412,000''.

## FEINSTEIN AMENDMENT NO. 1615

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, H.R. 2466, supra; as follows:

At the appropriate place insert the following:

''The Forest Service is authorized through the Forest Service existing budget to reimburse Harry Fray for the cost of his home, $143,406 (1997 dollars) destroyed by arson on June 21, 1990 in retaliation for his work with the Forest Service.''

## LEVIN (AND DEWINE) AMENDMENT NO. 1616

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by them to the bill, H.R. 2466, supra; as follows:

On page 10, line 23, strike ''River:'' and insert ''River, of which $400,000 shall be available for grants under the Great Lakes Fish and Wildlife Restoration Program, and of which $114,280,000 shall be available for general administration:''.

On page 2, line 14, after ''expended, '', insert the following: ''of which no more than $122,661,000 shall be available for workforce and organizational support.''

On page 23, line 10, after ''only; '', insert the following: ''of which no more than $34,186,000 shall be available for general administration.''

* * * * *

# VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999

## BOND (AND KERRY) AMENDMENT NO. 1617

Mr. BROWNBACK (for Mr. BOND (for himself and Mr. KERRY) proposed an amendment to the bill (H.R. 1568) to provide technical, financial, and procurement assistance to veteran owned small businesses, and for other purposes; as follows:

On page 55, strike line 5 and all that follows through page 56, line 15, and insert the following:

''(2) APPOINTMENT OF VOTING MEMBERS.—The President shall, after considering recommendations which shall be proposed by the Chairmen and Ranking Members of the Committees on Small Business and the Committees on Veterans Affairs of the House of Representatives and the Senate, appoint United States citizens to be voting members of the Board, not more than 5 of whom shall be members of the same political party.

On page 57, line 11, strike ''Administrator'' and insert ''President''.

# CENTENNIAL OF FLIGHT COMMEMORATION ACT

## DEWINE (AND OTHERS) AMENDMENT NO. 1618

Mr. BROWNBACK (for Mr. DEWINE (for himself, Mr. HELMS, and Mr. VOINOVICH)) proposed an amendment to the bill (S. 1072) to make certain technical and other corrections relating to the Centennial of Flight Commemoration Act (36 U.S.C. 143 note; 112 Stat. 3486 et seq.); as follows:

On page 5, strike lines 4 through 9 and insert the following:

''(6) provide advice and recommendations, through the Administrator of the National Aeronautics and Space Administration or the Administrator of the Federal Aviation Administration (or any employee of such agency head under the direction of that agency head), to individuals and organizations that wish to conduct their own activities in celebration of the centennial of flight, and maintain files of information and lists of experts on related subjects that can be disseminated on request;

## HELMS (AND OTHERS) AMENDMENT NO. 1619

Mr. BROWNBACK (for Mr. HELMS, FOR HIMSELF, Mr. DEWINE, and Mr. VOINOVICH)) proposed an amendment to the bill, S. 1072, supra; as follows:

In Section 1.(A)(ii) after the word ''Foundation';'' insert the following ''and in paragraph (3) strike the word ''chairman'' and insert the word ''president.''

# LEGISLATION TO LOCATE AND SECURE THE RETURN OF ZACHARY BAUMEL

## LEAHY AMENDMENT NO. 1620

Mr. BROWNBACK (for Mr. LEAHY) proposed an amendment to the bill (H.R. 1175) to locate and secure the return of Zachary Baumel, an American citizen, and other Israeli soldiers missing in action; as follows:

In H.R. 1175, replace subsection (b) of SEC. 2 with:

On page 3 strike lines 11–20 and insert the following:

(b) PROVISION OF ASSISTANCE TO CERTAIN GOVERNMENTS.—In deciding whether or not to provide United States assistance to any government or authority which the Secretary of State believes has information concerning the whereabouts of the soldiers described in subsection (a), and in formulating United States policy towards such government or authority, the President should take into consideration the willingness of the government or authority to assist in locating and securing the return of such soldiers.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITON, AND FORESTRY

Mr. LOTT. 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, August 5, 1999. The purpose of this meeting will be to discuss the farm crisis.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LOTT. 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, August 5, 1999, to conduct a hearing on pending nominations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 5, 1999 at 2:15 p.m. to hold a hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. 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, August 5, 1999 at 10:00 a.m. in room 628 of the Senate Dirksen Building.

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

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, August 5, 1999, to conduct a hearing on the Office of Multifamily Housing Assistance restructuring of HUD.

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

## ADDITIONAL STATEMENTS

### A TRIBUTE TO MARILEE SMILEY

• Mr. ABRAHAM. Mr. President, I rise today to pay tribute to Mrs. Marilee Smiley of Fenton, MI in recognition of her service as Supreme Guardian of the International Order of Job's Daughters. I extend to her my heartfelt congratulations for her service.

Marilee Smiley is a woman who has consistently demonstrated her commitment to the ideals of Masonry and the International Order of Job's Daughters. This exemplary organization is dedicated to instilling in young women, age eleven to twenty, the character traits necessary for success as human beings and citizens of our great land. In this quest, Mrs. Smiley has contributed her very best, and the young women she has so ably guided have been the beneficiaries.

Marilee Smiley has had tremendous impact not only in MI, but nationally and internationally. A woman of high principles, Marilee has utilized her intelligence, concern for youth, belief in humanity, and leadership abilities to serve others through participation in the International Order of Job's Daughters for forty-three years. As a youth she held various offices, including Honored Queen of Bethel No. 30, and the Grand Blanc and Michigan Grand Bethel Representative to California. As an adult leader she also held various offices in Bethel No. 30 of Grand Blanc, Bethel No. 50 of Lansing-Okemos, and Bethel No. 58 of Lansing, including serving as Bethel Guardian of Bethels No. 1, 2, 50, and 58.

Marilee Smiley has exemplified the character traits taught to her as a young woman in her continuing association with the International Order of Job's Daughters. As an adult leader, she was awarded the Triangle of Honor, the highest honor that the Grand Council of Michigan can bestow an adult leader.

This fine lady has also held several positions with the Grand Guardian Council of Michigan of the International Order of Job's Daughters, serving as Grand Guardian during the 1982–83 year.

She has continued her service to the International Order of Job's Daughters, holding several positions with the Supreme Council. Her services have included several committee offices, including serving the Board of Trustees from 1992 through 1995, and currently serving as Supreme Guardian of the International Order of Job's Daughters, the highest position an adult leader may hold.

Along with her work with the International Order of Job's Daughters, Marilee raised three wonderful children with her husband Ken. She taught them the importance of being involved in the community as well as volunteering. She was actively involved with Swim Clubs and Swim Boosters as all of her children swam competitively year-round.

Marilee Smiley deserves the highest tribute in recognition of her service as Supreme Guardian of the International Order of Job's Daughters.•

### RETIREMENT OF WILLIAM M. DEMPSEY

• Mr. ROBB. Mr. President, today I rise to honor Mr. William M. Dempsey who will retire from the U.S. Marshals Service on August 28, 1999. He has served as a Public Affairs Specialist with the Marshals Service for 23 years.

Mr. Dempsey has more than four and a half decades of experience in public affairs positions with various civilian, government and military organizations. For twenty years, from 1955–1975, he served with the U.S. Air Force in several positions. During the period 1959–1961 he served as a Public Information Officer with the U.S. Taiwan Defense Command. He later served a tour of duty in South Vietnam as Director of Information for all U.S. rescue and recovery activities. From 1968–1972 he served on the staff of the Secretary of the Air Force.

In late 1976, Mr. Dempsey joined the U.S. Marshals Service as a Public Affairs Specialist. In that capacity, he implemented a public affairs strategy for the agency, advised senior officials on public information aspects of major operational matters, and was frequently the agency's spokesman to the media. His extensive experience with national, regional, and local media organizations has benefitted the Marshals Service and the American public for more than two decades.

Mr. Dempsey graduated from St. Joseph's University in Philadelphia, Pennsylvania, in 1954 with a bachelor's degree in Political Science. He also has completed graduate level study in Public Relations/Communications at Boston University. He resides in Fairfax, Virginia, near the Arlington headquarters of the U.S. Marshals Service.

I am honoring Mr. Dempsey on the Senate floor today as a way of thanking him for his service to the law enforcement community, the public affairs community, and our nation.•

### TRIBUTE TO HOPE ANDERSON

• Mr. CRAIG. Mr. President, I rise today to recognize Hope Anderson. Hope is a constituent of mine and recently graduated as the valedictorian at Lake City High School in Coeur d'Alene, Idaho. Her valedictory address touched many of those who heard it, so I would like to take a minute of the Senate's time to enter the text of her speech into the RECORD.

A pair of laughing teenage boys gunned down fourteen students and one teacher in Littleton, Colorado a few weeks ago. Many of you asked yourselves the question, ''How could such an atrocity occur?'' Now I want you to ponder the question, ''How could this NOT happen?''

Our nation was founded upon moral principles, but its moral fabric is being ripped apart. Our deviation from basic ethical principles has corroded our very foundations as a country. I believe it is a time to change: when our children are not safe in school; when our society deems it more important to be politically correct than morally correct; when we don't give the needy a hand up and instead force our government to give them a hand out; when the marriage vows ''I do'' mean ''I might''; when the most dangerous place for a baby is in its mother's womb; when political elections are often a choice between the lesser of two evils; when there is no such thing as absolute truth; and when In God We Trust is engraved upon our currency but not on the hearts of the people, that is

when America needs to change. That time is now.

I believe that our nation is not in a hopeless downward spiral. If we, as the class of 1999, take a stand and be leaders, replacing the wrong with what is right, we can help to turn the tide in our nation. We must have a vision to know what we desire for our nation, courage to put it into action, and discernment to make the decisions necessary. I have a vision for America: where a person is judged by his character and not the color of his skin; where our politicians are honest and honorable; where our political system encourages hard work; where our people are informed by a media that tells both sides of the story; and where the sanctity of human life is respected as the most fundamental moral value.

As graduates, we are nearing a point in our lives where the decision we make will determine the outcome of our lives. As a nation, we are also nearing such a pivotal crossroads. We can transform our society into what it can be, what it should be, and what it will be if we take a stand as leaders to return to our moral heritage and in the words of Winston Churchill, ''Never give up, never give up, never give up.''●

## THE 314TH INFANTRY REGIMENT AND 79TH RECONNAISSANCE TROOP, 79TH INFANTRY DIVISION—53RD ANNUAL REUNION, NEW ORLEANS, LOUISIANA

● Ms. LANDRIEU. Mr. President, I speak today to honor the Soldiers of the 314th Infantry Regiment, 79th Reconnaissance Troop, 79th Infantry Division. The 79th Infantry Division landed on Utah Beach, Normandy on June 14, 1944 and entered combat on June 19. Launching a 10-month drive through France, Germany, and Czechoslovakia, the 79th Infantry Division eventually repulsed heavy German counter-attacks and secured Allied positions all the way to the Rhine-Herne Canal and the north bank of the Ruhr. As a unit, the 314th Inf Rgmt earned the French Fourragere, the Croix de Guerre with Palm Streamer embroidered ''Parroy Forest,'' and the Croix de Guerre Streamer with Palm embroidered ''Normandy to Paris;'' battalions of the 314th earned four Presidential Unite Citations. Soldiers of the 314th earned a Congressional Medal of Honor, Distinguished Service Crosses, and Silver Star, Bronze Star and Purple Heart Medals, as well as the French Legion of Honor in the Grade of Chalier, the Croix de Guerre with Palm, the Croix de Guerre with Silver Gilt Star, the Croix de Guerre with Gilt Star and the Croix de Guerre with Bronze Star and the British Military Medal.

Awarding the French Croix de Guerre with Palm to the 79th Infantry Division on July 22, 1946, the President of the Provisional Government of the French Republic praised the remarkable unit which displayed splendid endurance and exceptional fighting zeal. . . . In spite of heavy losses, it fought stubbornly against a dashing and fanatical enemy, preventing it from reappearing in the Vosges. It thus contributed greatly to the liberation of Baccaret, Phalsbourg and Saverne.

Three years later, the French Minister of National Defense cited the 79th Infantry Division: [A] splendid unit incited by savage vigor, landed in Normandy in June 1944. Covered itself with glory in the battles of Saint-Lo and at Haye de-Puits. Participated in the capture of Fougeres, Laval, and Le Mans, then crossing on the enemy before marching triumphantly into Paris on 27 August 1944. By its bold actions, contributed largely to the success of the Allied armies and the liberation of Paris.

Most notably,the 79th Infantry Division reinforced the greatest amphibious assault in modern history in its drive across the continent. On June 6, 2000, the National D-Day museum will open in New Orleans to not only commemorate the landing of America's initial World War II armada but celebrate the valiant achievements of subsequent Army Divisions. As I see it, the invasion of Normandy in the summer of 1944 made three monumental accomplishments: it marked a critical milestone in military strategic history, initiated the Allied victory against Nazi Germany, and essentially a new era of American military leadership.

Today, the American soldiers who risked their lives to foment these changes continue to inspire works of artists, authors, film writers, soldiers, and policymakers. In the words of Secretary of State Madeleine Albright, the United States, has become the ''indispensable country'' for preserving stability and security in the world. If this is true, then certainly these men make up an ''indispensable generation.'' Most recently, the writings of Tom Brokaw, Steven Spielberg, and New Orleans' own Stephen Ambrose have captured the sense of American idealism and patriotic fervor invigorating our World War II veterans. These men's contributions have persisted decades after V–E Day in driving the United States to the forefront of world economic, political, and technological development. Accordingly, in the post-Cold War era, the United States and its allies have once again faced down mass-scale murder in Europe reminiscent of the Holocaust you so bravely arrested. Our cooperation with Europe has evidently worked once again.

As the European Union begins to realize its economic and political potential, it is especially essential that we retain our trans-Atlantic relationship which has fostered the most intimate system of inter-state security for over fifty years. My state has a particular interest in maintaining ties with the continent from which much of our unique cultural and political identity derives. As Louisiana celebrates its French heritage in its 300th Francofete year, the people of our state salute you, in light of your supreme accomplishments: helping in the liberation of France and dismantlement of the Nazi Third Reich, inaugurating an era of American preeminence and ultimately, making the world safe for democracy.●

## CONGRATULATIONS TO CHRISTOPHER CUEVA

● Mr. MURKOWSKI. Mr. President, I rise today to recognize a constituent of mine, Mr. Christopher Cueva of Anchorage, Alaska, for his selection to attend the Research Science Institute's intensive six-week summer program. The program, held at the Massachusetts Institute of Technology in conjunction with the Center for Excellence in Education, prepares students to be future world leaders, advancing science and technology on every level.

Christopher was one of 50 high school students selected for this program from across the country. All of the students considered for the program scored in the top one percent of those taking the PSAT exam. He shows extremely well rounded extra-curricular activities along with a strong academic background.

I am proud to see young people such as Christopher attaining academic success at a young age. It gives me hope and faith to see our education system producing individuals that have the capability to lead our country into the next millennium.

I believe it is important that we congratulate Christopher and all the students selected for this elite program. I also want to congratulate the Center for Excellence in Education and MIT for continuing their work of advancing our country's work in science and technology. I am confident that Christopher will take full advantage of the opportunities before him, and again my congratulations to him.●

## TRIBUTE TO AMY BURKE WRIGHT

● Mr. LEAHY. Mr. President, I take this opportunity to recognize the accomplishments of Amy Burke Wright on the occasion of her departure from the Lake Champlain Housing Development Corporation, LCHDC.

For 22 years Amy has been working to provide affordable housing to low income and disabled families in Vermont, and she has done it in such a way as to build respect and self-esteem among those she has helped. Amy has been the lead developer for twenty-five housing developments in eleven Vermont communities. I don't know of a single one of those projects that fit the stereotype for ''low-income'' housing. More than once in attended the ground-breaking or ribbon cutting for one of the housing developments Amy has managed, I have wished I could live there. From her ground breaking work on the Thelma Maples and Flynn Avenue Co-ops in Burlington to the wonderful redevelopment of an old school at the Marshall Center in St. Albans, Amy has changed the face of affordable housing in Vermont. For that, I and the hundreds of people who have benefitted from her work, thank her.

And it is not just that Amy has brought affordable housing into the mainstream, it is how she has done it—

with a creativity and determination to go where no affordable housing provider has gone before. If a project utilizes an innovative approach to ownership, or an organization forms to address affordable housing in new and exciting ways, more likely than not, Amy was there. She established and directed the first congregate housing project in Vermont, was a founding member of the Burlington Community Land Trust, the first non-profit in the state to actively promote long term affordability and community control of housing, and is a member of the Board of Directors of Richmond Housing Inc. which recently sponsored the first project in Vermont to provide home office space to support resident economic development. And these examples only scratch the surface of her work.

During one event to celebrate the opening of yet another affordable housing project she had shepherded to completion, Amy gave me a wand for, she said, the magic I had done in bringing some federal financing to the project. For all that Amy has done to bring quality affordable housing within reach for countless Vermont families, she deserves a super hero cape.●

## TRIBUTE TO MADELEINE ANNE THOMAS

● Mr. ABRAHAM. Mr. President, I rise today in memory of a dear friend, Madeleine Anne Thomas, who tragically drowned during a rafting trip on June 22. I also want to pay tribute today to her husband and children who were with her on that day. I feel extremely fortunate to have known Madeleine as a friend. I know that she will be missed by many.

Madeleine Thomas had a propensity for helping people. This desire led her to specialize as a lawyer in the areas of domestic relations, small business law, and civil and criminal litigation. Her top priorities were cases involving children—she served as the court referee for the Wexford and Missaukee County Circuit Courts. In this capacity, she heard and ruled on all issues concerning child support, child custody, visitation, paternity, and alimony for the Circuit Court.

Ms. Thomas was also influential in the advancement of women in her field. She was the first woman president of her local county bar association and she led the way in promoting equality by showing others that she could accomplish that which no other woman had.

Mr. President, I cannot put into words the importance this genuine person had on the people she touched. Her son Christopher's beautiful and touching eulogy truly captures the spirit of her loving and compassionate life. I ask to have printed in the RECORD Christopher's heart-felt eulogy, which was printed in the Traverse City Record Eagle.

Mr. President, I yield the floor.

The eulogy follows:

MADELEINE ANNE THOMAS

DIED JUNE 22, 1999

TRAVERSE CITY.—The world's greatest mother, most loving wife, kindest daughter and most compassionate lawyer died Wednesday, June 22. Madeleine Anne Thomas drowned in a tragic river rafting accident in Montana during a family trip.

Madeleine lived a spirited, sincerely happy life, which started with her birth in Brooklyn, N.Y. on Nov. 2, 1957. After a childhood in which her parents, Jacqueline and Ben Thomas, taught her the essential values of gentle kindness, she graduated from Michigan State University and received her law degree from the University of Detroit. While in college, Madeleine met her soul mate and man of her dreams, Bob Eichenlaub.

Throughout their marriage, Bob and Madeleine maintained a constant, fulfilling love. They truly saw each other through sickness and health; in richer and in poorer their was always love.

She crafted into being two gentle children to whom she taught the skills of love. Christopher T. Eichenlaub, 17, and Caroline T. Eichenlaub, 12, remember with joy all of the moments of guidance that their mother provided. Whether it was through a heart-to-heart, a philosophical debate, or even an argument, Madeleine always had her children, and their future as individual souls, as her first interest.

Henry Wadsworth Longfellow once wrote, ''Give what you have. To someone, it may be better than you dare to think.'' These words sat on Madeleine's desk and this is how she lived her life. She gave all that she could, to any whom she could.

During her 15 years in Traverse City, she took in two teens, one as a foster child, and just last year, took a Russian exchange student into her heart. She raised Glen and Stahsy as confidently and as warmly as she did her own, showing them how a family works and how true motherly love feels.

While Madeleine consistently showed that her family, friends and spiritual life were her top priorities, she also set up her own law firm with partner Thomas Gilbert and became quite a renowned lawyer. Madeleine served a short period as a rotarian and also spent much time as a Wexford County referee. On her ten year reunion questionnaire form for University of Detroit, Madeleine said that the thing she liked most about her practice was her community involvement.

Because of this community involvement, and her work, motivation and persistent work in many fields, Madeleine was recognized and thanked by organizations including: The Michigan Association for Emotionally Disturbed Children, United Way, Women's Resource Center, American Cancer Society, Third Level Crisis Center, State Theatre Group, Traverse City Chamber of Commerce and Crooked Tree Girl Scouts. She wrote articles for both the Business News and the Prime Time News, teaching her readers to be able to negotiate for themselves.

Among the many things that she was known for, she will be most missed for her exploding, infectious laughter which brightened any situation, softened any reality and livened any chance encounter. Her laughter brought people in. It was one of her best ways of showing love. Caroline, shortly before her mother's death, said ''Your laughter makes me feel important.'' And that it did.

Although a devout Catholic, Madeleine believed in the basics dignities inherent to all religions, races and cultures. She had faith in Christ the Savior, yet acknowledged that many beliefs may be the right belief, while very few could be wrong if the human consciousness was in the right place.

Friends may call from 2 to 4 p.m. and 6 to 8 p.m. Sunday at Immaculate Conception Church in Traverse City. A rosary will be recited at 8 p.m. A funeral Mass will be celebrated at 2 p.m. Monday at the church. Madeleine was planning to travel to Haiti to set up a medical mission this August. She would be pleased to have donations sent to Mission of Love, 931 Crestwood Drive, East, Evansville, IN 47715 or Women's Resource Center, 720 S. Elmwood, Traverse City, MI 49684.

Written by Madeleine's beloved son, Christopher.

## IN MEMORY OF PAUL SCOTT HOWELL

● Mr. INHOFE. Mr. President, on Wednesday, July 28, Paul Scott Howell of Edmond, Oklahoma was shot and killed as he pulled into the driveway of his parents' home. The apparent motive is carjacking. At the time of his death, Mr. Howell was returning from a shopping trip for school supplies with his daughters and his sister. Fortunately, his daughters and sister were not harmed.

On Monday, August 2, the City of Edmond mourned this senseless death. It was clear from the tone of the service and from those who attended that Paul was loved and admired by many. Although I never had the pleasure of knowing Paul, I suspect that not only have his family and friends suffered a great loss but the entire country has as well because Paul was one of those people that we all wish we could be like. I think Carol Hartzog, the Managing Editor of the Edmond Sun newspaper says it best in a recent column, ''You would have liked Paul Howell.'' Mr. President, I ask to have printed in the RECORD Ms. Hartzog's tribute to Paul Scott Howell.

The tribute follows:

[From The Edmond Sun, Aug. 3, 1999]

YOU WOULD HAVE LIKED PAUL HOWELL

(By Carol Hartzog)

Paul Howell's life went full circle.

Four-year-old ''Paulie'' was blessed by a security that only a 1950s-era Edmond could provide. It was an idyllic time. Forty years later, Paul was gunned down dead in his boyhood neighborhood last Wednesday. He was a blessed youngster, and through life's trials, has been gifted as an adult. He would in turn bless all who knew him.

Despite his death, his testament will live on.

Often, the media will make a victim of random violence into a larger-than-life character.

But in this case, Paul Howell ministered to so many, young and old. On one hand, he would light up a room with his bounding presence, his boisterous, fun-loving way. On the other hand, in an unassuming way, this 45-year-old man would mentor to those who had fallen victim of the bottle and sought help from Alcoholics Anonymous.

Not only was he a recovering alcoholic, but he had such a passion for it that his story will live—and benefit—so many long after his death. He carried the message to other alcoholics, and mentored them through their steps of recovery.

''Paul didn't just use AA,'' his brother Bill told me. ''AA used him to continue to reach out to others. . . . He grabbed hold of it. He was available all the time, and pushed other people into it, and I was so proud of him doing it.''

''It takes a special person to let go of that anonymity,'' Bill said. Paul really didn't care. He was so happy that AA had changed his life, he wanted to reach out and change as many people as he could.

''That's the real wonder of Paul.''

Paul took AA's philosophy to the ultimate degree—one day at a time. A funeral for an alcoholic often gathers a handful of people. Often, there has been no road to recovery, only to death, either by your own hand or another's.

In contrast, Paul Howell's funeral Monday was a celebration—a celebration of one who had triumphed. And with Paul's gifts of an award-winning smile, his sense of humor an his good looks, he helped so many because of his Maker.

Because of his hardships, he connected with the youth of his church, relating his failures and his message, ''Don't do to your parents what I did.''

Howell's funeral Monday brought people from all the ''walks'' of his life—his boyhood chums, his AA friends and the community of faith that had been there, literally, from the beginning.

I never had the pleasure of meeting Paul. But it was evident from the many I visited with that what I have said is true. He and his family touched many lives. His family roots extend to the Land Run here.

Sitting next to me was the 80-something year-old retired church organist, who accompanied Paul's mother, Dorothy, and the rest of the choir. The musician watched little Paul and his older brothers grow up.

On the other side of me was Larry, a business associate in the insurance industry. Paul would visit Larry's office at least monthly. He has a gregarious nature.

''I expect by now, he's met everyone in heaven and they all like him,'' he said. ''He never met a stranger. Although, last week, he did.''

And then there's the teen-ager who was in Paul's ninth- and 10th-grade Sunday School class.

''He was really cool,'' Matt said. Paul would occasionally give him tickets to University of Oklahoma ball games.

Leroy spoke at Howell's funeral Monday. Leroy is ''A friend of Bill W.,'' as the funeral bulletin would state. That reference is to the founder of AA.

Through powerful, audible terms, all those who attended the funeral knew Paul's influence through AA. When Leroy spoke from the pulpit and said, ''Hello, my name is Leroy and I'm a recovering alcoholic. . . .'' I would surmise a third of those in attendance said, ''Hello, Leroy,'' the standard response spoken in unison at AA meetings. You knew Paul was a testament to the power of AA.

The diversity of Paul's scope of influence was apparent. The sanctuary was overflowing. There were hundreds lining its walls, in the foyer, the crying rooms and other anterooms—1,200 people in all, it's estimated. The altar area was covered with 25 flower arrangements—the huge kind that would only look small in the setting of a British cathedral. Dozens more lesser arrangements filled in what space was left.

Paul's memorial service was also a testament to Edmond—a community coming together to pay its respects to the victim of such a random, senseless act.

In the 1950's this then-small town would give Paulie a Rockwell-esque setting in which to grow up. The town's population was 9,000. First Christian Church provided the security that came with that.

He and his two older brothers would bound over fences to the neighbors' houses where the Gibsons and the Rices lived. He grew up in a tight-knit neighborhood where many of his playmates remained to adulthood and to adult responsibilities. That's unique in Edmond today, where a third of our population didn't live here five years ago.

His youthful years became troubled with normal teen-age problems, drinking being a part of that.

Twelve years ago, his life took another turn when he admitted his alcoholism and sought help with AA. That road would take him to a new high, a pinnacle that few reach when struggling with alcoholism.

His community of faith at First Christian Church would walk with him. And along that long stretch, he touched so many. He had been given a gift of new life through AA, and he has been giving back over the years.

This community has pulled together before—the 1986 tornado that struck our town but miraculously took no lives. The post office massacre that same year that took 15 citizens. And the Murrah Building bombing that took 19 Edmond residents.

We don't get any better at coping.

But we know, as the Rev. Kyle Maxwell so eloquently stated Monday, that ''suffering got us here (through the crucifixion of Christ on the Cross).''

Let's not ''try to make sense out of the senseless crime,'' Maxwell said.

''The 'why?' of it is that God created us to be free. Sometimes that's too heavy a burden for some people.'' He has given us the freedom to be compassionate and the freedom to take another's life, Maxwell said.

I believe that Christians are to be people of grace and of forgiveness. We are as sinful as the people who took Paul's life. In this case, society places consequences on those sins acted out. But, Jesus said that any sin is just as deadly, even if it is, unspoken and remains in the heart.

You are to forgive, for if you don't, anger will literally eat away any energy or beauty that Paul may have placed in your hearts.

That's what it's all about. Grace. And if you are not at that point to forgive in your journey, say so. Make a commitment to try.

The families of those in jail who are on this side of heaven and going through a worldly hell need your prayers.

I believe Paul would have been right there, leading the prayer service for those sinners like himself. He has experienced his own private hell and knew from whence they came.●

## 50TH YEAR ANNIVERSARY OF THE MANN GULCH FIRE

● Mr. BURNS. Mr. President, I rise today to remember a significant, but often overlooked historical event in our nation's past-Montana's Mann Gulch Fire which occurred 50 years ago today. This event continues to capture the nation's attention because thirteen brave, young men died fighting this fire. LIFE Magazine ran a big story shortly after this fire. In 1952, Hollywood made a movie about this unfortunate disaster called ''Red Skies of Montana.'' And Norman Maclean, who wrote the famous book ''A River Runs Through It'', wrote a haunting best-seller entitled ''Young Men and Fire'' in 1992. But even more remarkable, this single event marked a turning point in the way the federal government fights wildland fires.

It was a hot summer day in August 1949, not unlike what we have recently experienced, when a Forest Service Fire Guard, James Harrison, reported a small fire in a little, funnel-shaped gulch along the Missouri River. The temperature was 97 degrees with a light wind from the north and east. The fire was located 20 miles north of Helena, Montana in a roadless area called the Gates of the Mountain. Parachuting 15 smokejumpers was decided to be the best approach to reach this remote area quickly to control this relatively ordinary fire.

Once on the ground, the smokejumpers joined the Forest Service Fire Guard to fight the fire. As they moved down the gulch toward the Missouri River, the wind quickly shifted from the south, funneling a strong wind up the gulch. As they got near the Missouri River, a wall of fire blocked their access to the river. The fire was getting hotter and swiftly moving up the gulch. Retreating back was their only solution, however, it was a hard hike back up the steep rocky slope of the gulch. As the firefighters retreated, dropping their equipment, a 30 foot wall of fire raced toward them and eventually overcame them.

In the end, only three firefighters survived—Wagner ''Wag'' Dodge, Walter Rumsey, and Robert Sallee. Thirteen firefighters died as a testament to the power of a fire ''blow up'' which had raced down and back up the slopes of Mann Gulch faster than men could travel. Mr. President, I would like to take a moment to name those thirteen brave young men who lost their lives that day—Robert Bennett, Eldon Diettert, James Harrison, William Hellman, Philip McVey, David Navon, Leonard Piper, Stanley Reba, Marvin Sherman, Joseph Sylvia, Henry Thol, Jr., Newton Thompson, and Silas Thompson.

This tragic loss 50 years ago, however, should not be remembered only in a somber way. We should remember the many positive changes that have come from this disaster. After investigating the Mann Gulch Fire, the federal government made a stronger investment in fighting wildland fires. For example, in 1954, President Dwight Eisenhower personally opened the Aerial Fire Depot in Missoula, Montana. Understanding how wildland fires behave and how to best fight them also increased with the opening of research laboratories in Missoula, Montana and Macon, Georgia. Development of new techniques, such as ''safety zones'' and new technologies, such as reflective ''fire shelters,'' were made to increase the protection of fire fighters in the midst of a fire. These changes were made in large measure due to the sacrifice these thirteen brave men made on August 5, 1949.

There is one last step that needs to be taken. Congress needs to address some of the problems in maintaining the high quality of our nation's fire fighting crews. Yesterday I introduced legislation which will do that. I trust my colleagues will join with me in supporting this bill to ensure its passage. What could be a more fitting tribute to all the brave men and women who have lost their lives fighting wildland fires

than to enact legislation this year to strengthen the quality of our nation's firefighting crews.

Mr. President, I invite my colleagues to join me in honoring these brave men for their dedication, sacrifice, and contributions to protect America from wildland fires. To these men who revered honor and honored duty, we salute them.●

## TRIBAL COLLEGES AND UNIVERSITIES BRING HOPE TO NATIVE PEOPLE

● Mr. CAMPBELL. Mr. President, I want to express my support for the 31 Tribal Colleges and Universities that provide hope to America's Native communities. The Tribal College movement began some 30 years ago and has a proven track record of success as an integral, viable part of Native American communities.

I believe the Tribal Colleges are the nation's best kept secrets in higher education, and it saddens me to report that the Tribal Colleges are the nation's most underfunded institutions in higher education

In comparison to the mainstream community colleges and universities system, the Tribal College movement is still in its infancy. Over a 30 year period, Tribal Colleges have managed to change the social landscape of Indian country, operating on a shoe-string budget while maintaining full national collegiate accreditation standards.

Tribal Colleges currently operate on a budget of forty percent less than what mainstream community colleges receive from government sources. This is a remarkable feat. Tribal Colleges continue to survive despite these and other difficulties such as problems in the recruitment and retention of faculty due to remote locations and inability to offer competitive salaries.

Unlike other schools, Tribal Colleges do not receive automatic state funding for non-Indian students since they are located on Indian trust lands even though they provide GED, remedial and adult literacy programs for all students, and also doubling as community, cultural and child centers.

Enrollment numbers exceed approximately 26,000 students being served, with growth rate averages of approximately eight percent per year. With this growth rate, these institutions must have adequate funding to meet the growing demands being placed on these tribal educational hubs.

Tribal Colleges are experiencing an enrollment boom and with steady level-funding, will actually see the quality of services deteriorate. I am supportive of efforts to find and provide additional funds for Tribal Colleges as are many of my colleagues.

Studies have shown that Tribal Colleges significantly decrease employment rates, substance abuse and teen pregnancy in some of the nation's poorest communities. More than forty percent of students who attend Tribal Colleges transfer to four-year institutions, and a majority of them return to assist their reservations after receiving their degrees.

I would like to cite two examples of many success stories of the positive impact of the Tribal Colleges:

Justin Finkbonner of the Lummi Nation graduated from Northwest Indian College in Bellingham, Washington with an Associate Arts Degree. Justin continued his education by transferring to complete a four-year Bachelor's Degree in Environmental Policy from the Huxley College of Environmental Studies at Western Washington University. Currently, he is serving as Morris K. Udall Foundation Native American Congressional Fellow this summer on Capitol Hill experiencing the legislative process with the intention to return to the Lummi Nation, help his people and one day achieve his goal of becoming a tribal leader.

In his own words,

> The Northwest Indian College offered an academic setting and curriculum that no other mainstream institution could offer. For example, one would not receive Lummi tribal history and Lummi language classes at their college, plus the individual attention from faculty and staff to ensure my success. These key differences from mainstream colleges and universities still influence me to this day to aspire to achieve my goals. I had never had that much encouragement and support from this many people to show me that they car about me and my future. I owe a great deal to the Tribal Colleges.

Another success story: Julie Jefferson of the Nooksack tribe, forty-five years old, a wife, a mother of three, a grandmother of five—she has worked at the Northwest Indian College for twelve years as an Administrative Assistant for Instructional Services. She is currently a full-time college employee working her way through her academic pursuits. While working in full capacity, she has managed to complete a two year Associate Arts Degree and still currently working while pursuing a four-year Bachelor's Degree in Human Services at the Woodring College of Education at Western Washington University in Washington State. Ms. Jefferson expects to graduate in the Spring of 2000 with goals to continue her education pursuing a Master's Degree. She is a classic example of the tribal student profile of being a non-traditional female student with dependents from a nearby surrounding community.

Of the 31 Tribal Colleges, two offer Master's Degree programs, four offer Bachelor Degree Programs and many are in the process of developing four-year degree programs cooperatively with nearby mainstream institutions. Tribal Colleges are awarding more than 1,000 Associate Degrees each year, and these Degrees represent nineteen percent of all Associate Degrees awarded to American Indians. This is an impressive figure considering the Tribal Colleges enroll only about seven percent of all American Indian students.

In Academic Year 1996–1997 the Tribal Colleges awarded: 1,016 Associate Degrees, 88 Bachelor Degrees and 7 Masters Degrees. In Academic Year 1995–1996: 1,024 Associate Degrees, 57 Bachelor Degrees and 7 Masters Degrees were awarded. Obviously, these statistics from the National Center for Education solidifies the success of the Tribal College movement by producing graduates—future, productive members of their communities and of society.

Mr. President, I would like to conclude my statement with a quote from one of two special reports produced by The Carnegie Foundation for the Advancement of Teaching titled, ''Tribal Colleges: Shaping the Future of Native America''. I, again want to reinforce my support of this nation's 31 Tribal Colleges and to encourage my colleagues on both sides of the aisle to offer their support along with me:

> Tribal Colleges offer hope. They can, with adequate support, continue to open doors of opportunity to the coming generations and help Native American communities bring together a cohesive society, one that draws inspiration from the past in order to shape a creative, inspired vision of the future.●

## CONGRATULATING ANDREW ROTHERHAM

● Mr. GORTON. Mr. President, I take this opportunity to congratulate Andrew Rotherham on his new position in the White House as the Special Assistant to the President for Education Policy. Mr. Rotherham was formerly the director of the 21st Century Schools Project at the Progressive Policy Institute, the think tank of the Democratic Leadership Council. Mr. Rotherham has in the past worked closely with my staff on education issues, and I want to wish him success in his new endeavor.

Mr. Rotherham's appointment also may create an opportunity for the Administration to reform its positions on education. Recently, the House passed the Teacher Empowerment Act in a bipartisan fashion, 239–185. I had the opportunity to participate in a press conference earlier this week at which Senator GREGG unveiled a slightly different Senate version of the Teacher Empowerment Act. Unfortunately, the President has signaled his intention to veto this legislation because it does not explicitly authorize his Class Size Reduction program. I recommend and hope that the President will learn what Mr. Rotherham has said recently about that proposal.

In his position at the Progressive Policy Institute, Mr. Rotherham wrote Toward Performance-Based Federal Education Funding—Reauthorization of the Elementary and Secondary Education Act, a policy paper that in part touched on the merits of the President's class size reduction program and the issue of local control of education decisions. In a section of this paper entitled Teacher Quality, Class Size, and Student Achievement, he has this to say about the class size reduction program,

Now a part of Title VI of ESEA, President Clinton's $1.2 billion class-size reduction initiative, passed in 1998, illustrates Washington's obsession with means at the expense of results and also the triumph of symbolism over sound policy. The goal of raising student achievement is reasonable and essential; however, mandating localities do it by reducing class sizes precludes local decision-making and unnecessarily involves Washington in local affairs.

Mr. Rotherham goes on to state,

During the debate on the Clinton class-size proposal, it was correctly pointed out that research indicates that teacher quality is a more important variable in student achievement than class size. In fact, this crucial finding was even buried in the U.S. Department of Education's own literature on the issue. The Committee on the Prevention of Reading Difficulty in Young Children stated, ''[Although] the quantity and quality of teacher-student interactions are necessarily limited by large class size, best instructional practices are not guaranteed by small class size.'' In fact, one study of 1000 school districts found that every dollar spent on more highly qualified teachers ''netted greater improvements in student achievement than did any other use of school resources.'' Yet despite this, the class-size initiative allows only 15 percent of the $1.2 billion appropriation to be spent on professional development. Instead of allowing states and localities flexibility to address their own particular circumstances, Washington created a one-size-fits all approach.

Mr. Rotherham ends this section of the paper by asking the following insightful question,

Considering the crucial importance of teacher quality, the current shortage of qualified teachers, and the fact that class-size is not a universal problem throughout the country, shouldn't states and localities have the option of using more than 15 percent of this funding on professional development?

I am hopeful that Mr. Rotherham will prevail upon President Clinton to work with Congress to pass education reform legislation that allows states and local communities the flexibility they need to provide a quality education for all children, while ensuring that they are held accountable for the results of the education they provide. As Mr. Rotherham states, the federal government should not concentrate on ''. . . means at the expense of results . . .'', and should not allow ''. . . the triumph of symbolism over sound policy,'' which the President's class size reduction program represents.

My best wishes go out to Mr. Rotherham, and it is my sincere hope that he will be able to have some influence with this administration and that he is able to convince them that Washington does not know best. It's time we put children first, and change the emphasis of the federal government from process and paperwork to kids and learning.

I ask to print in the RECORD the section from Mr. Rotherham's report that discusses his views on the administration's class size initiative.

The material follows:

TOWARD PERFORMANCE-BASED FEDERAL EDUCATION FUNDING: REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

(By Andrew Rotherham)

TEACHER QUALITY, CLASS SIZE, AND STUDENT ACHIEVEMENT

Reducing class size is obviously not a bad idea. Quite the contrary, substantial research indicates it can be an effective strategy to raise student achievement. As the Progressive Policy Institute has pointed out, all things being equal, teachers are probably more effective with fewer students. However, achieving smaller class sizes is often problematic. For example, as a result of a teacher shortage exacerbated by a mandate to reduce class sizes, 21,000 of California's 250,000 teachers are working with emergency permits in the states most troubled schools.

Now a part of Title VI of ESEA, President Clinton's $1.2 billion class-size reduction initiative, passed in 1998, illustrates Washington's obsession with means at the expense of results and also the triumph of symbolism over sound policy. The goal of raising student achievement is reasonable and essential; however, mandating localities do it by reducing class sizes precludes local decision-making and unnecessarily involves Washington in local affairs.

During the debate on the Clinton class-size proposal, it was correctly pointed out that research indicates that teacher quality is a more important variable in student achievement than class size. If fact, this crucial finding was even buried in the U.S. Department of Education's own literature on the issue. The Committee on the Prevention of Reading Difficulty in Young Children stated, ''[Although] the quantity and quality of teacher-student interactions are necessarily limited by large class size, best instructional practices are not guaranteed by small class size.'' In fact, one study of 1000 school districts found that every dollar spent on more highly qualified teachers ''Netted greater improvements in student achievement than did any other use of school resources.'' Yet despite this, the class-size initiative allows only 15 percent of the $1.2 billion appropriation to be spent on professional development. Instead of allowing states and localities flexibility to address their own particular circumstances, Washington created a one-size-fits all approach. Considering the crucial importance of teacher quality, the current shortage of qualified teachers, and the fact that class-size is not a universal problem throughout the country, shouldn't states and localities have the option of using more than 15 percent of this funding on professional development?●

## TRIBUTE TO WHITEHALL AND MONTAGUE VETERANS

● Mr. ABRAHAM. Mr. President, I rise today to pay tribute to the Veterans of WWII from Whitehall and Montague, Michigan, on the occasion of the Restoration and Dedication of the WWII Monument in Whitehall, Michigan.

We as a country cannot thank enough the men and women of the armed forces who have served our country. The very things that make America great today we owe in large part to the Veterans of WWII as well as our Veterans of other wars. The bravery and courage that these young people showed in defending our nation is a tribute to the upbringing they received in Whitehall and Montague. While these men clearly are outstanding in their home towns, they also have contributed greatly to the freedom of all Americans.

These great men put everything aside for their country. They put their families and education aside for the good of democracy.

Some of them even gave their lives.

On August 14, 1999, there will be a WWII Monument Rededication honoring the Whitehall and Montague Veterans. At that time, their communities will, in a small but significant way, thank them for the sacrifices they made to keep us free.

I would like to take this opportunity to join the people of Whitehall and Montague in honoring all of their citizens who fought for our country. Furthermore, I would like to pay special tribute to those men who gave their lives for our country by listing them in the CONGRESSIONAL RECORD.

Mr. President, I yield the floor.

WWII MEMORIAL—KILLED IN ACTION

Robert Andrews
James Bayne
Thomas Buchanan
A. Christensen
Russell Cripe
Earl Gingrich
Otto Grunewald
Walter Haupt
Harry Johnson
Raymond Kissling
Robert LaFaunce
Kenneth Leighton
Edward Lindsey
Tauro Maki
Roger Meinert
Dr. D.W. Morse
Robert Pulsipher
John Radics
Lyle Rolph
Raymond Runsel
Wayne Stiles
H. Strandberg, Jr.
Robert Zatzke●

## ANTICYBERSQUATTING CONSUMER PROTECTION ACT

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 240, S. 1255.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1255) to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE; REFERENCES.***

*(a) SHORT TITLE.—This Act may be cited as the ''Anticybersquatting Consumer Protection Act.''.*

*(b) REFERENCES TO THE TRADEMARK ACT OF 1946.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act*

*entitled ''An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).*

***SEC. 2. FINDINGS.***

*Congress finds the following:*

*(1) The registration, trafficking in, or use of a domain name that is identical without regard to the goods or services of the parties, with the bad-faith intent to profit from the goodwill of another's mark (commonly referred to as ''cyberpiracy'' and ''cybersquatting'')—*

*(A) results in consumer fraud and public confusion as to the true source or sponsorship of goods and services;*

*(B) impairs electronic commerce, which is important to interstate commerce and the United States economy;*

*(C) deprives legitimate trademark owners of substantial revenues and consumer goodwill; and*

*(D) places unreasonable, intolerable, and overwhelming burdens on trademark owners in protecting their valuable trademarks.*

*(2) Amendments to the Trademark Act of 1946 would clarify the rights of a trademark owner to provide for adequate remedies and to deter cyberpiracy and cybersquatting.*

***SEC. 3. CYBERPIRACY PREVENTION.***

*(a) IN GENERAL.—Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended by inserting at the end the following:*

*''(B) In determining whether there is a bad-faith intent described under subparagraph (A), a court may consider factors such as, but not limited to—*

*''(i) the trademark or other intellectual property rights of the person, if any, in the domain name;*

*''(ii) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;*

*''(iii) the person's prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;*

*''(iv) the person's legitimate noncommercial or fair use of the mark in a site accessible under the domain name;*

*''(v) the person's intent to divert consumers from the mark owner's online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site;*

*''(vi) the person's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for substantial consideration without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services;*

*''(vii) the person's intentional provision of material and misleading false contact information when applying for the registration of the domain name; and*

*''(viii) the person's registration or acquisition of multiple domain names which are identical without regard to the goods or services of such persons.*

*''(C) In any civil action involving the registration, trafficking, or use of a domain name under this paragraph, a court may order the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.*

*''(2)(A) The owner of a mark may file an in rem civil action against a domain name if—*

*''(i) the domain name violates any right of the registrant of a mark registered in the Patent and Trademark Office, or section 43 (a) or (c); and*

*''(ii) the court finds that the owner has demonstrated due diligence and was not able to find a person who would have been a defendant in a civil action under paragraph (1).*

*''(B) The remedies of an in rem action under this paragraph shall be limited to a court order for the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.''.*

*(b) ADDITIONAL CIVIL ACTION AND REMEDY.—The civil action established under section 43(d)(1) of the Trademark Act of 1946 (as added by this section) and any remedy available under such action shall be in addition to any other civil action or remedy otherwise applicable.*

***SEC. 4. DAMAGES AND REMEDIES.***

*(a) REMEDIES IN CASES OF DOMAIN NAME PIRACY.—*

*(1) INJUNCTIONS.—Section 34(a) of the Trademark Act of 1946 (15 U.S.C. 1116(a)) is amended in the first sentence by striking ''section 43(a)'' and inserting ''section 43 (a), (c), or (d)''.*

*(2) DAMAGES.—Section 35(a) of the Trademark Act of 1946 (15 U.S.C. 1117(a)) is amended in the first sentence by inserting '', (c), or (d)'' after ''section 43 (a)''.*

*(b) STATUTORY DAMAGES.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:*

*''(d) In a case involving a violation of section 43(d)(1), the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits, an award of statutory damages in the amount of not less than $1,000 and not more than $100,000 per domain name, as the court considers just. The court shall remit statutory damages in any case in which an infringer believed and had reasonable grounds to believe that use of the domain name by the infringer was a fair or otherwise lawful use.''.*

***SEC. 5. LIMITATION ON LIABILITY.***

*Section 32(2) of the Trademark Act of 1946 (15 U.S.C. 1114) is amended—*

*(1) in the matter preceding subparagraph (A) by striking ''under section 43(a)'' and inserting ''under section 43 (a) or (d)''; and*

*(2) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:*

*''(D)(i) A domain name registrar, a domain name registry, or other domain name registration authority that takes any action described under clause (ii) affecting a domain name shall not be liable for monetary relief to any person for such action, regardless of whether the domain name is finally determined to infringe or dilute the mark.*

*''(ii) An action referred to under clause (i) is any action of refusing to register, removing from registration, transferring, temporarily disabling, or permanently canceling a domain name—*

*''(I) in compliance with a court order under section 43(d); or*

*''(II) in the implementation of a reasonable policy by such registrar, registry, or authority prohibiting the registration of a domain name that is identical to, confusingly similar to, or dilutive of another's mark registered on the Principal Register of the United States Patent and Trademark Office.*

*''(iii) A domain name registrar, a domain name registry, or other domain name registration authority shall not be liable for damages under this section for the registration or maintenance of a domain name for another absent a showing of bad faith intent to profit from such registration or maintenance of the domain name.*

*''(iv) If a registrar, registry, or other registration authority takes an action described under clause (ii) based on a knowing and material misrepresentation by any person that a domain name is identical to, confusingly similar to, or dilutive of a mark registered on the Principal Register of the United States Patent and Trademark Office, such person shall be liable for any damages, including costs and attorney's fees, incurred by the domain name registrant as a result of such action. The court may also grant injunctive relief to the domain name registrant, including the reactivation of the domain name or the transfer of the domain name to the domain name registrant.''.*

***SEC. 6. DEFINITIONS.***

*Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by inserting after the undesignated paragraph defining the term ''counterfeit'' the following:*

*''The term 'Internet' has the meaning given that term in section 230(f)(1) of the Communications Act of 1934 (47 U.S.C. 230(f)(1)).*

*''The term 'domain name' means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.''.*

***SEC. 7. SAVINGS CLAUSE.***

*Nothing in this Act shall affect any defense available to a defendant under the Trademark Act of 1946 (including any defense under section 43(c)(4) of such Act or relating to fair use) or a person's right of free speech or expression under the first amendment of the United States Constitution.*

***SEC. 8. SEVERABILITY.***

*If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.*

***SEC. 9. EFFECTIVE DATE.***

*This Act shall apply to all domain names registered before, on, or after the date of enactment of this Act, except that statutory damages under section 35(d) of the Trademark Act of 1946 (15 U.S.C. 1117), as added by section 4 of this Act, shall not be available with respect to the registration, trafficking, or use of a domain name that occurs before the date of enactment of this Act.*

AMENDMENT NO. 1609

(Purpose: To clarify the rights of domain name registrants and Internet users with respect to lawful uses of Internet domain names, and for other purposes)

Mr. BROWNBACK. Mr. President, Senators HATCH and LEAHY have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The Senator from Kansas [Mr. BROWNBACK], for Mr. HATCH, for himself and Mr. LEAHY, proposes an amendment numbered 1609.

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

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

The amendment is as follows:

On page 10, line 4, beginning with ''to'' strike all through the comma on line 7 and insert ''or confusingly similar to a trademark or service mark of another that is distinctive at the time of the registration of the domain name, or dilutive of a famous trademark or service mark of another that is famous at the time of the registration of the domain name,''.

On page 11, strike lines 5 through 12 and insert the following:

''(d)(1)(A) A person shall be liable in a civil action by the owner of a trademark or service mark if, without regard to the goods or services of the parties, that person—

''(i) has a bad faith intent to profit from that trademark or service mark; and

''(ii) registers, traffics in, or uses a domain name that—

''(I) in the case of a trademark or service mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to such mark; or

''(II) in the case of a famous trademark or service mark that is famous at the time of registration of the domain name, is dilutive of such mark.

On page 12, line 19, strike all beginning with ''to'' through the comma on line 22 and insert ''or confusingly similar to trademarks or service marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous trademarks or service marks of others that are famous at the time of registration of such domain names,''.

On page 13, insert between lines 3 and 4 the following:

''(D) A use of a domain name described under subparagraph (A) shall be limited to a use of the domain name by the domain name registrant or the domain name registrant's authorized licensee.

On page 16, line 24, strike the quotation marks and the second period.

On page 16, add after line 24 the following:

''(v) A domain name registrant whose domain name has been suspended, disabled, or transferred under a policy described under clause (ii)(II) may, upon notice to the mark owner, file a civil action to establish that the registration or use of the domain name by such registrant is not unlawful under this Act. The court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name to the domain name registrant.''.

Mr. HATCH. Mr. President, today the Senate considers legislation to address the serious threats to American consumers, businesses, and the future of electronic commerce, which derive from the deliberate, bad-faith, and abusive registration of Internet domain names in violation of the rights of trademark owners. For the Net-savvy, this burgeoning form of cyber-abuse is known as ''cybersquatting.'' For the average consumer, it is simply fraud, deception, and the bad-faith trading on the goodwill of others.

Our trademark laws have long recognized the communicative value of brand name identifiers, which serve as the primary indicators of source, quality, and authenticity in the minds of consumers. These laws prohibit the unauthorized uses of other people's marks because such uses lead to consumer confusion, undermine the goodwill and communicative value of the brand names they rely on, and erode consumer confidence in the marketplace generally. Such problems of brand-name abuse and consumer confusion are particularly acute in the online environment, where traditional indicators of source, quality, and authenticity give way to domain names and digital storefronts that take little more than Internet access and rudimentary computer skills to erect. In many cases, the domain name that takes consumers to an Internet site and the graphical interface that greets them when they get there are the only indications of source and authenticity, and legitimate and illegitimate sites may be indistinguishable to online consumers.

Despite the protections of existing trademark law, cyber-pirates and online bad actors are increasingly taking advantage of the novelty of the Internet and the online vulnerabilities of trademark owners to deceive and defraud consumers and to hijack the valuable trademarks of American businesses. In some cases these bad actors register the well-known marks of others as domain names with the intent to extract sizeable payments from the rightful trademark owner in exchange for relinquishing the rights to the name in cyberspace. In others they use the domain name to divert unsuspecting Internet users to their own sites, which are often pornographic sites or competitors' sites that prey on consumer confusion. Still others use the domain name to engage in counterfeiting activities or for other fraudulent or nefarious purposes.

In considering this legislation, the Judiciary Committee has seen examples of many such abuses. For example, we heard testimony of consumer fraud being perpetrated by the registrant of the ''attphonecard.com'' and ''attcallingcard.com'' domain names who set up Internet sites purporting to sell calling cards and soliciting personally identifying information, including credit card numbers. We also heard examples of counterfeit goods and nongenuine Porsche parts being sold on a number of the more than 300 web sites found using domain names bearing Porsche's name. The risks posed to consumers by these so-called ''dot.con'' artists continue to escalate as more people go online to buy things like pharmaceuticals, financial services, and even groceries.

I was also surprised to learn that the ''dosney.com'' domain was being used for a hard-core pornography website—a fact that was brought to the attention of the Walt Disney Company by the parent of a child who mistakenly arrived at that site when looking for Disney's main page. In a similar case, a 12-year old California boy was denied privileges at his school when he entered ''zelda.com'' in a web browser at his school library, looking for a site he expected to be affiliated with the popular computer game of the same name, but ended up at a pornography site. Young children are not the only victims of this sort of abuse. Recently the Intel Corporation had the ''pentium3.com'' domain snatched up by a cybersquatter who used it to post pornographic images of celebrities and offered to sell the domain name to the highest bidder.

The Committee also heard numerous examples of online bad actors using domain names to engage in unfair competition. For example, one domain name registrant used the name ''wwwcarpoint.com,'' without a period following the ''www,'' to drive consumers who are looking for Microsoft's popular Carpoint car buying service to a competitor's site offering similar services. Other bad actors don't even bother to offer competing services, opting instead to register multiple domain names to interfere with companies' ability to use their own trademarks online. For example, the Committee was told that Warner Bros. was asked to pay $350,000 for the rights to the names ''warner-records.com,'' ''warner-bros-records.com,'' ''warner-pictures.com,'' ''warner-bros-pictures'', and ''warner-pictures.com.''

It is time for Congress to take a closer look at these abuses and to respond with appropriate legislation. The bill the Senate considers today will address these problems by clarifying the rights of trademark owners with respect to cybersquatting, by providing clear deterrence to prevent such bad faith and abusive conduct, and by providing adequate remedies for trademark owners in those cases where it does occur. And while the bill provides many important protections for trademark owners, it is important to note that the bill we are considering today reflects the text of a substitute amendment that Senator LEAHY and I offered in the Judiciary Committee to carefully balance the rights of trademark owners with the interests of Internet users. The text is substantively identical to the legislation that Senator LEAHY and I introduced as S. 1461, with Senators ABRAHAM, TORRICELLI, DEWINE, KOHL, and SCHUMER as cosponsors. In short, it represents a balanced approach that will protect American consumers and the businesses that drive our economy while at the same time preserving the rights of Internet users to engage in protected expression online and to make lawful uses of others' trademarks in cyberspace.

Let me take just a minute to explain some of the changes that are reflected in the bill as it has been reported to the Senate by the Judiciary Committee. While the current bill shares the goals of, and has some similarity to, the bill as introduced, it differs in a number of substantial respects. First, like the legislation introduced by Senator ABRAHAM, this bill allows trademark owners to recover statutory damages in cybersquatting cases, both to deter wrongful conduct and to provide adequate remedies for trademark owners who seek to enforce their rights in court. The reported bill goes beyond simply stating the remedy, however, and sets forth a substantive cause of action, based in trademark law, to define the wrongful conduct sought to be deterred and to fill in the gaps and uncertainties of current trademark law with respect to cybersquatting.

Under the bill as reported, the abusive conduct that is made actionable is appropriately limited to bad faith registrations of others' marks by persons who seek to profit unfairly from the goodwill associated therewith. In addition, the reported bill balances the property interests of trademark owners with the interests of Internet users who would make fair use of others' marks or otherwise engage in protected

speech online. The reported bill also limits the definition of domain name identifier to exclude such things as screen names, file names, and other identifiers not assigned by a domain name registrar or registry. It also omits criminal penalties found in Senator ABRAHAM's original legislation.

Second, the reported bill provides for in rem jurisdiction, which allows a mark owner to seek the forfeiture, cancellation, or transfer of an infringing domain name by filing an in rem action against the name itself, where the domain name violates the mark owner's substantive trademark rights and where the mark owner has satisfied the court that it has exercised due diligence in trying to locate the owner of the domain name but is unable to do so. A significant problem faced by trademark owners in the fight against cybersquatting is the fact that many cybersquatters register domain names under aliases or otherwise provide false information in their registration applications in order to avoid identification and service of process by the mark owner. The bill, as reported, will alleviate this difficulty, while protecting the notions of fair play and substantial justice, by enabling a mark owner to seek an injunction against the infringing property in those cases where, after due diligence, a mark owner is unable to proceed against the domain name registrant because the registrant has provided false contact information and is otherwise not to be found.

Additionally, some have suggested that dissidents or others who are online incognito for similar legitimate reasons might give false information to protect themselves and have suggested the need to preserve a degree of anonymity on the Internet particularly for this reason. Allowing a trademark owner to proceed against the domain names themselves, provided they are, in fact, infringing or diluting under the Trademark Act, decreases the need for trademark owners to join the hunt to chase down and root out these dissidents or others seeking anonymity on the Net. The approach in this bill is a good compromise, which provides meaningful protection to trademark owners while balancing the interests of privacy and anonymity on the Internet.

Third, like the original Abraham bill, the substitute amendment encourages domain name registrars and registries to work with trademark owners to prevent cybersquatting by providing a limited exemption from liability for domain name registrars and registries that suspend, cancel, or transfer domain names pursuant to a court order or in the implementation of a reasonable policy prohibiting cybersquatting. The bill goes further, however, in order to protect the rights of domain name registrants against overreaching trademark owners. Under the reported bill, a trademark owner who knowingly and materially misrepresents to the domain name registrar or registry that a domain name is infringing is liable to the domain name registrant for damages resulting from the suspension, cancellation, or transfer of the domain name. In addition, the court may award injunctive relief to the domain name registrant by ordering the reactivation of the domain name or the transfer of the domain name back to the domain name registrant. Finally, the bill also promotes the continued ease and efficiency users of the current registration system enjoy by codifying current case law limiting the secondary liability of domain name registrars and registries for the act of registration of a domain name.

Finally, the reported bill includes an explicit savings clause making clear that the bill does not affect traditional trademark defenses, such as fair use, or a person's first amendment rights, and it ensures that any new remedies created by the bill will apply prospectively only.

In addition, the Senate is considering today an amendment I am offering with Senator LEAHY to make three additional clarifications. First, our amendment will clarify that the prohibited ''uses'' of domain names contemplated by the bill are limited to uses by the domain name registrant or his authorized licensee and do not include uses by others, such as in hypertext links, directory publishing, or search engines.

Second, our amendment clarifies that, like the Federal Trademark Dilution Act, uses of names that dilute the marks of others are actionable only where the mark that is harmed has achieved the status of a ''famous'' mark. As reported by the Committee, the bill does not distinguish between famous and non-famous marks. I supported this outcome because I believe the bill should provide protection to all mark owners against the deliberate, bad-faith dilution of their marks by cybersquatters—particularly given the proliferation of small startups that are driving the growth of electronic commerce on the Internet. Nevertheless, in the interest of moving the bill forward to provide much needed protection to trademark owners in a timely fashion and to build more closely on the pattern set by established law, I agreed to support an amendment limiting the scope of the bill to famous marks in the dilution context. Thus, our amendment clarifies that, like substantive trademark law generally, uses of others' marks in a way that causes a likelihood of consumer confusion is actionable whether or not the mark is famous, but like under the Federal Trademark Dilution Act, dilutive uses of others' marks is actionable only if the mark is famous.

Finally, our amendment clarifies that a domain name registrant whose name is suspended in an extra-judicial dispute resolution procedure can seek a declaratory judgment that his use of the name was, in fact, lawful under the Trademark Act. This clarification is consistent with other provisions of the reported bill that seek to protect domain name registrants against overreaching trademark owners.

Let me say in conclusion that this is an important piece of legislation that will promote the growth of online commerce by protecting consumers and providing clarity in the law for trademark owners in cyberspace. It is a balanced bill that protects the rights of Internet users and the interests of all Americans in free speech and protected uses of trademarked names for such things as parody, comment, criticism, comparative advertising, news reporting, etc. It reflects many hours of discussions with senators and affected parties on all sides. Let me thank Senator LEAHY for his work in crafting this particular measure, as well as Senator ABRAHAM for his cooperation in this effort, and all the other cosponsors of the bill and the substitute amendment adopted by the Judiciary Committee last week. I look forward to my colleagues' support of this measure and to working with them to get this important bill promoting e-commerce and online consumer protection through the Senate and enacted into law.

Mr. LEAHY. Mr. President, I am pleased that the Senate is today passing the Hatch-Leahy substitute amendment to S. 1255, the ''Anticybersquatting Consumer Protection Act.'' Senator HATCH and I, and others, have worked hard to craft this legislation in a balanced fashion to protect trademark owners and consumers doing business online, and Internet users who want to participate in what the Supreme Court has described as '''a unique and wholly new medium of worldwide human communication.'' Reno v. ACLU, 521 U.S. 844 (1997).

On July 29, 1999, Senator HATCH and I, along with several other Senators, introduced S. 1461, the ''Domain Name Piracy Prevention Act of 1999.'' This bill then provided the text of the Hatch-Leahy substitute amendment that we offered to S. 1255 at the Judiciary Committee's executive business meeting the same day. The Committee unanimously reported the substitute amendment favorably to the Senate for consideration. This substitute amendment, with three additional refinements contained in a Hatch-Leahy clarifying amendment, is the legislation that the Senate considers today.

Trademarks are important tools of commerce.—The exclusive right to the use of a unique mark helps companies compete in the marketplace by distinguishing their goods and services from those of their competitors, and helps consumers identify the source of a product by linking it with a particular company. The use of trademarks by companies, and reliance on trademarks by consumers, will only become more important as the global marketplace becomes larger and more accessible with electronic commerce. The reason is simple: when a trademarked name is

used as a company's address in cyberspace, customers know where to go online to conduct business with that company.

The growth of electronic commerce is having a positive effect on the economies of small rural states like mine. A Vermont Internet Commerce report I commissioned earlier this year found that Vermont gained more than 1,000 new jobs as a result of Internet commerce, with the potential that Vermont could add more than 24,000 jobs over the next two years. For a small state like ours, this is very good news.

Along with the good news, this report identified a number of obstacles that stand in the way of Vermont reaching the full potential promised by Internet commerce. One obstacle is that ''merchants are anxious about not being able to control where their names and brands are being displayed.'' Another is the need to bolster consumers' confidence in online shopping.

Cybersquatters hurt electronic commerce.—Both merchant and consumer confidence in conducting business online are undermined by so-called ''cybersquatters'' or ''cyberpirates,'' who abuse the rights of trademark holders by purposely and maliciously registering as a domain name the trademarked name of another company to divert and confuse customers or to deny the company the ability to establish an easy-to-find online location. A recent report by the World Intellectual Property Organization (WIPO) on the Internet domain name process has characterized cybersquatting as ''predatory and parasitical practices by a minority of domain registrants acting in bad faith'' to register famous or well-known marks of others—which can lead to consumer confusion or downright fraud.

Enforcing trademarks in cyberspace will promote global electronic commerce.—Enforcing trademark law in cyberspace can help bring consumer confidence to this new frontier. That is why I have long been concerned with protecting registered trademarks online. Indeed, when the Congress passed the Federal Trademark Dilution Act of 1995, I noted that: ''[A]lthough no one else has yet considered this application, it is my hope that this antidilution statute can help stem the use of deceptive Internet addresses taken by those who are choosing marks that are associated with the products and reputations of others.'' (CONGRESSIONAL RECORD, Dec. 29, 1995, page S19312)

In addition, last year I authored an amendment that was enacted as part of the Next Generation Internet Research Act authorizing the National Research Council of the National Academy of Sciences to study the effects on trademark holders of adding new top-level domain names and requesting recommendations on inexpensive and expeditious procedures for resolving trademark disputes over the assignment of domain names. Both the Internet Corporation for Assigned Names and Numbers (ICANN) and WIPO are also making recommendations on these procedures. Adoption of a uniform trademark domain name dispute resolution policy will be of enormous benefit to American trademark owners.

The ''Domain Name Piracy Prevention Act,'' S. 1461, which formed the basis for the substitute amendment to S. 1255 that the Senate considers today, is not intended in any way to frustrate these global efforts already underway to develop inexpensive and expeditious procedures for resolving domain name disputes that avoid costly and time-consuming litigation in the court systems either here or abroad. In fact, the legislation expressly provides liability limitations for domain name registrars, registries or other domain name registration authorities when they take actions pursuant to a reasonable policy prohibiting the registration of domain names that are identical or confusingly similar to another's trademark or dilutive of a famous trademark. The ICANN and WIPO consideration of these issues will inform the development by domain name registrars and registries of such reasonable policies.

The Federal Trademark Dilution Act of 1995 has been used as I predicted to help stop misleading uses of trademarks as domain names. One court has described this exercise by saying that ''attempting to apply established trademark law in the fast-developing world of the Internet is somewhat like trying to board a moving bus . . .'' Bensusan Restaurant Corp. v. King, 126 F.3d 25 (2d Cir. 1997). Nevertheless, the courts appear to be handling ''cybersquatting'' cases well. As University of Miami Law Professor Michael Froomkin noted in testimony submitted at the Judiciary Committee's hearing on this issue on July 22, 1999, ''[i]n every case involving a person who registered large numbers of domains for resale, the cybersquatter has lost.''

For example, courts have had little trouble dealing with a notorious cybersquatter, Dennis Toeppen from Illinois, who registered more than 100 trademarks—including ''yankee stadium.com,'' ''deltaairlines.com,'' and ''neiman-marcus.com''—as domain names for the purpose of eventually selling the names back to the companies owning the trademarks. The various courts reviewing his activities have unanimously determined that he violated the Federal Trademark Dilution Act.

Similarly, Wayne State University Law Professor Jessica Litman noted in testimony submitted at the Judiciary Committee's hearing that those businesses which ''have registered domain names that are confusingly similar to trademarks or personal names in order to use them for pornographic web sites . . . have without exception lost suits brought against them.''

Enforcing or even modifying our trademark laws will be only part of the solution to cybersquatting. Up to now, people have been able to register any number of domain names in the popular ''.com'' domain with no money down and no money due for 60 days. Network Solutions Inc. (NSI), the dominant Internet registrar, announced just last month that it was changing this policy, and requiring payment of the registration fee up front. In doing so, the NSI admitted that it was making this change to curb cybersquatting.

In light of the developing case law, the ongoing efforts within WIPO and ICANN to build a consensus global mechanism for resolving online trademark disputes, and the implementation of domain name registration practices designed to discourage cybersquatting, the legislation we pass today is intended to build upon this progress and provide constructive guidance to trademark holders, domain name registrars and registries and Internet users registering domain names alike.

Commercial sites are not the only ones suffering at the hands of domain name pirates. Even the Congress is not immune: while cspan.org provides detailed coverage of the Senate and House, cspan.net is a pornographic site. Moreover, Senators and presidential hopefuls are finding that domain names like bush2000.org and hatch2000.org are being snatched up by cyber poachers intent on reselling these names for a tidy profit. While this legislation does not help politicians protect their names, it will help small and large businesses and consumers doing business online.

As introduced, S. 1255 was flawed.—I appreciate the efforts of Senators ABRAHAM, TORRICELLI, HATCH and MCCAIN to focus our attention on this important matter. As originally introduced, S. 1255 proposed to make it illegal to register or use any ''Internet domain name or identifier of an online location'' that could be confused with the trademark of another person or cause dilution of a ''famous trademark.'' Violations were punishable by both civil and criminal penalties.

I voiced concerns at a hearing before the Judiciary Committee that, in its original form, S. 1255 would have a number of unintended consequences that could hurt rather than promote electronic commerce, including the following specific problems:

The definition was overbroad.—As introduced, S. 1255 covered the use or registration of any ''identifier,'' which could cover not just second level domain names, but also e-mail addresses, screen names used in chat rooms, and even files accessible and readable on the Internet. As one witness pointed out, ''the definitions will make every fan a criminal.'' How? A file document about Batman, for example, that uses the trademark ''Batman'' in its name, which also identifies its online location, could land the writer in court under that bill. Cybersquatting is not about file names.

The original bill threatened hypertext linking.—The Web operates on hypertext linking, to facilitate jumping from one site to another. The original bill could have disrupted this practice by imposing liability on operators of sites with links to other sites with trademark names in the address. One could imagine a trademark owner not wanting to be associated with or linked with certain sites, and threatening suit under this proposal unless the link were eliminated or payments were made for allowing the linking.

The original bill would have criminalized dissent and protest sites.—A number of Web sites collect complaints about trademarked products or services, and use the trademarked names to identify themselves. For example, there are protest sites named ''boycott-cbs.com'' and ''www.PepsiBloodbath.com.'' While the speech contained on those sites is clearly constitutionally protected, as originally introduced, S. 1255 would have criminalized the use of the trademarked name to reach the site and made them difficult to search for and find online.

The original bill would have stifled legitimate warehousing of domain names.—The bill, as introduced, would have changed current law and made liable persons who merely register domain names similar to other trademarked names, whether or not they actually set up a site and used the name. The courts have recognized that companies may have legitimate reasons for registering domain names without using them and have declined to find trademark violations for mere registration of a trademarked name. For example, a company planning to acquire another company might register a domain name containing the target company's name in anticipation of the deal. The original bill would have made that company liable for trademark infringement.

For these and other reasons, Professor Litman concluded that, as introduced, the ''bill would in many ways be bad for electronic commerce, by making it hazardous to do business on the Internet without first retaining trademark counsel.'' Faced with the risk of criminal penalties, she stated that ''many start-up businesses may choose to abandon their goodwill and move to another Internet location, or even to fold, rather than risk liability.''

The Hatch-Leahy Domain Name Piracy Prevention Act and substitute amendment to S. 1255 are a better solution.—S. 1461, the ''Domain Name Piracy Prevention Act,'' which Senators HATCH and I, and others, introduced and which provides the text of the substitute amendment to S. 1255, addresses the cybersquatting problem without jeopardizing other important online rights and interests. Along with the Hatch-Leahy clarifying amendment we consider today, this legislation would amend section 43 of the Trademark Act (15 U.S.C. § 11125) by adding a new section to make liable for actual or statutory damages any person, who with bad-faith intent to profit from the goodwill of another's trademark, without regard to the goods or services of the parties, registers, traffics in or uses a domain name that is identical or confusingly similar to a distinctive trademark or dilutive of a famous trademark. The fact that the domain name registrant did not compete with the trademark owner would not be a bar to recovery.

Uses of infringing domain names that support liability under the legislation are expressly limited to uses by the domain name registrant or the registrant's authorized licensee. This limitation makes clear that ''uses'' of domain names by persons other than the domain name registrant for purposes such as hypertext linking, directory publishing, or for search engines, are not covered by the prohibition.

Domain name piracy is a real problem. Whitehouse.com has probably gotten more traffic from people trying to find copies of the President's speeches than those interested in adult material. As I have noted, the issue has struck home for many in this body, with aspiring cyber-poachers seizing domain names like bush2000.org and trying to extort political candidates for their use.

While the problem is clear, narrowly defining the solution is trickier. The mere presence of a trademark is not enough. Legitimate conflicts may arise between companies offering different services or products under the same trademarked name, such as Juno lighting inc. and Juno online services over the juno.com domain name, or between companies and individuals who register a name or nickname as a domain name, such as the young boy nicknamed ''pokey'' whose domain name ''pokey.org'' was challenged by the toy manufacturer who owns the rights to the Gumby and Pokey toys. In other cases, you may have a site which uses a trademarked name to protest a group, company or issue, such as pepsibloodbath.com, or even to defend one's reputation, such as www.civil-action.com, which belongs not to the motion picture studio, but to W.R. Grace to rebut the unflattering portrait of the company as a polluter and child poisoner created by the movie.

There is a world of difference between these sorts of sites and those which use deceptive naming practices to draw attention to their site (e.g., whitehouse.com), or those who use domain names to misrepresent the goods or services they offer (e.g., dellmemory.com, which may be confused with the Dell computer company).

We must also recognize certain technological realities. For example, merely mentioning a trademark is not a problem. Posting a speech that mentions AOL on my web page and calling the page aol.html, confuses no one between my page and America Online's site. Likewise, we must recognize that while the Web is a key part of the Internet, it is not the only part. We simply do not want to pass legislation that may impose liability on Internet users with e-mail addresses, which may contain a trademarked name. Nor do we want to crack down on newsgroups that use trademarks descriptively, such as alt.comics.batman.

In short, it is important that we distinguish between the legitimate and illegitimate use of domain names, and this legislation does just that. Significant sections of this legislation include:

Definition.—Domain names are narrowly defined to mean alphanumeric designations registered with or assigned by domain name registrars or registries, or other domain name registration authority as part of an electronic address on the Internet. Since registrars only register second level domain names, this definition effectively excludes file names, screen names, and e-mail addresses and, under current registration practice, applies only to second level domain names.

Scienter Requirement.—Good faith, innocent or negligent uses of a domain name that is identical or confusingly similar to another's mark or dilutive of a famous mark are not covered by the legislation's prohibition. Thus, registering a domain name while unaware that the name is another's trademark would not be actionable. Nor would the use of a domain name that contains a trademark for purposes of protest, complaint, parody or commentary satisfy the requisite scienter requirement. Bad-faith intent to profit is required for a violation to occur. This requirement of bad-faith intent to profit is critical since, as Professor Litman pointed out in her testimony, our trademark laws permit multiple businesses to register the same trademark for different classes of products. Thus, she explains:

> [a]lthough courts have been quick to impose liability for bad faith registration, they have been far more cautious in disputes involving a domain name registrant who has a legitimate claim to use a domain name and registered it in good faith. In a number of cases, courts have refused to impose liability where there is no significant likelihood that anyone will be misled, even if there is a significant possibility of trademark dilution.

The legislation outlines the following non-exclusive list of eight factors for courts to consider in determining whether such bad-faith intent to profit is proven: (i) the trademark rights of the domain name registrant in the domain name; (ii) whether the domain name is the legal name or nickname of the registrant; (iii) the prior use by the registrant of the domain name in connection with the bona fide offering of any goods or services; (iv) the registrant's legitimate noncommercial or fair use of the mark at the site under the domain name; (v) the registrant's intent to divert consumers from the mark's owner's online location in a manner that could harm the mark's

goodwill, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the site; (vi) the registrant's offer to sell the domain name for substantial consideration without having or having an intent to use the domain name in the bona fide offering of goods or services; (vii) the registrant's intentional provision of material false and misleading contact information when applying for the registration of the domain name; and (viii) the registrant's registration of multiple domain names that are identical or similar to or dilutive of another's trademark.

Damages.—In civil actions against cybersquatters, the plaintiff is authorized to recover actual damages and profits, or may elect before final judgment to award of statutory damages of not less than $1,000 and not more than $100,000 per domain name, as the court considers just. The court is directed to remit statutory damages in any case where the infringer reasonably believed that use of the domain name was a fair or otherwise lawful use.

In Rem Actions.—The bill would also permit an in rem civil action filed by a trademark owner in circumstances where the domain name violates the owner's rights in the trademark and the court finds that the owner demonstrated due diligence and was not able to find the domain name holder to bring an in personam civil action. The remedies of an in rem action are limited to a court order for forfeiture or cancellation of the domain name or the transfer of the domain name to the trademark owner.

Liability Limitations.—The bill would limit the liability for monetary damages of domain name registrars, registries or other domain name registration authorities for any action they take to refuse to register, remove from registration, transfer, temporarily disable or permanently cancel a domain name pursuant to a court order or in the implementation of reasonable policies prohibiting the registration of domain names that are identical or confusingly similar to another's trademark, or dilutive of a famous trademark.

Prevention of Reverse Domain Name Hijacking.—Reverse domain name hijacking is an effort by a trademark owner to take a domain name from a legitimate good faith domain name registrant. There have been some well-publicized cases of trademark owners demanding the take down of certain web sites set up by parents who have registered their children's names in the .org domain, such as two year old Veronica Sams's ''Little Veronica'' website and 12 year old Chris ''Pokey'' Van Allen's web page.

In order to protect the rights of domain name registrants in their domain names the legislation provides that registrants may recover damages, including costs and attorney's fees, incurred as a result of a knowing and material misrepresentation by a person that a domain name is identical or similar to, or dilutive of, a trademark.

In addition, a domain name registrant, whose domain name has been suspended, disabled or transferred, may sue upon notice to the mark owner, to establish that the registration or use of the domain name by the registrant is lawful. The court in such a suit is authorized to grant injunctive relief, including the reactivation of a domain name or the transfer or return of a domain name to the domain name registrant.

Cybersquatting is an important issue both for trademark holders and for the future of electronic commerce on the Internet. Any legislative solution to cybersquatting must tread carefully to ensure that authorized remedies do not impede or stifle the free flow of information on the Internet. In many ways, the United States has been the incubator of the World Wide Web, and the world closely watches whenever we venture into laws, customs or standards that affect the Internet. We must only do so with great care and caution. Fair use principles are just as critical in cyberspace as in any other intellectual property arena. I am pleased that Chairman HATCH and I, along with Senators ABRAHAM, TORRICELLI, and KOHL have worked together to find a legislative solution that respects these considerations.

Mr. ABRAHAM. Mr. President, I am pleased to rise today in order to comment on S. 1255, the Anticybersquatting Consumer Protection Act of 1999. Through the tremendous help of several of my colleagues, notably Senators HATCH, LEAHY, TORRICELLI, MCCAIN, BREAUX, and LOTT, we moved this bill in little over one month from a concept to final product, through the Judiciary Committee with unanimous support, and again with unanimous support through the Senate floor. I thank all involved for their help, and I am comfortable in my belief that we have accomplished a great feat here today: the Senate has taken an important step in reforming trademark law for the digital age, and in protecting the expectations and safety of consumers, and the property rights of business nationwide.

This legislation will combat a new form of high-tech fraud that is causing confusion and inconvenience for consumers, increasing costs for people doing business on the Internet, and posing substantial threat to a century of pre-Internet American business efforts. The fraud is commonly called ''cybersquatting,'' a practice whereby individuals in bad faith reserve Internet domain names or other identifiers of online locations that are similar or identical to trademarked names. Once a trademark is registered as an online identifier or domain name, the ''cybersquatter'' can engage in a variety of nefarious activities—from the relatively benign parody of a business or individual, to the obscene prank of redirecting an unsuspecting consumer to pornographic content, to the destructive worldwide slander of a centuries-old brand name. This behavior undermines consumer confidence, discourages Internet use, and destroys the value of established brand names and trademarks.

Electronic of ''E'' commerce in particular has been an engine of great economic growth for the United States. E-commerce between businesses has grown to an estimated $64.8 billion for 1999. Ten million customers shopped for some product using the Internet in 1998 alone. International Data Corporation estimates that $31 billion in products will be sold over the Internet in 1999. And 5.3 million households will have access to financial transactions like banking and stock trading by the end of 1999.

Our economy, and its ability to provide high paying jobs for American workers, is increasingly dependent upon technology—and on e-commerce in particular. If we want to maintain our edge in the global marketplace, we must address those problems which endanger continued growth in e-commerce. Some unscrupulous—though enterprising—people are engaged in the thriving and unethical business collecting and selling Internet addresses containing trademarked names.

Cybersquatting has already caused significant damage. Even computer-savvy companies buy domain names from cybersquatters at extortionate rates to rid themselves of a headache with no certain outcome. For example, computer maker Gateway recently paid $100,000 to a cybersquatter who had placed pornographic images on the website ''www.gateway20000''. But rather than simply give up, several companies, including Paine Webber, have instead sought protection of their brands through the legal system. However, as with much of the pre-Internet law that is applied to this post-Internet world, precedent is still developing, and at this point, one cannot predict with certainty which party to a dispute will win, and on what grounds, in the future.

Whether perpetrated to defraud the public or to extort the trademark owner, squatting on Internet addresses using trademarked names is wrong. Trademark law is based on the recognition that companies and individuals build a property right in brand names because of the reasonable expectations they raise among consumers. If you order a Compaq or Apple computer, that should mean that you get a computer made by Compaq or Apple, not one built by a fly-by-night company pirating the name. The same goes for trademarks on the Internet.

To protect Internet growth and job production, Senators TORRICELLI, HATCH, MCCAIN, and I introduced an anticybersquatting bill which received strong public support. A number of suggestions convinced me of the need

for substitute legislation addressing the problem of in rem jurisdiction and eliminating provisions dealing with criminal penalties, and I have been pleased to work with Senators HATCH and LEAHY to that effect.

Our final legislative product would establish uniform federal rules for dealing with this attack on interstate electronic commerce, supplementing existing rights under trademark law. It establishes a civil action for registering, trafficking in, or using a domain name identifier that is identical to, confusingly similar to, or dilutive of another person's trademark or service mark that either is inherently distinctive or had acquired distinctiveness.

This bill also incorporates substantial protections for innocent parties, keying on the bad faith of a party. Civil liability would attach only if a person had no intellectual property rights in the domain name identifier, the domain name identifier was not the person's legal first name or surname; and the person registered, acquired, or used the domain name identifier with the bad-faith intent to benefit from the goodwill of a trademark or service mark of another.

Just to be clear on our intent, the ''bad-faith'' requirement may be established by, among others, any of the following evidence:

First, if the registration or use of the domain name identifier was made with the intent to disrupt the business of the mark owner by diverting consumers from the mark owner's online location;

Second, if a pattern is established of the person offering to transfer, sell, or otherwise assign more than one domain name identifier to the owner of the applicable mark or any third party for consideration, without having used the domain name identifiers in the bona fide offering of any goods or services; or

Third, if the person registers or acquires multiple domain name identifiers that are identical to, confusingly similar to, or dilutive of any distinctive trademark or service mark of one or more other persons.

In addition, under this legislation, the owner of a mark may bring an in rem action against the domain name identifier itself. This will allow a court to order the forfeiture or cancellation of the domain name identifier or the transfer of the domain name identifier to the owner of the mark. It also reinforces the central characteristic of this legislation—its intention to protect property rights. The in rem provision will eliminate the problem most recently and prominently experienced by the auto maker Porsche, which had an action against several infringing domain name identifiers dismissed for lack of personal jurisdiction.

In terms of damages, this legislation provides for statutory civil damages of at least $1,000, but not more than $100,000 per domain name identifier. The plaintiff may elect these damages in lieu of actual damages or profits at any time before final judgment.

The growth of the Internet has provided businesses and individuals with unprecedented access to a worldwide source of information, commerce, and community. Unfortunately, those bad actors seeking to cause harm to businesses and individuals have seen their opportunities increase as well. In my opinion, on-line extortion in this form is unacceptable and outrageous. Whether it's people extorting companies by registering company names, misdirect Internet users to inappropriate sites, or otherwise attempting to damage a trademark that a business has spent decades building into a recognizable brand, persons engaging in cybersquatting activity should be held accountable for their actions. I believe that these provisions will discourage anyone from ''squatting'' on addresses in cyberspace to which they are not entitled.

I again wish to thank my colleagues for their assistance in this effort, and I look forward to final passage of this legislation after careful and thoughtful consideration by the House of Representatives.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment, as amended, be agreed to, the bill be read a third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The amendment (No. 1609) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 1255), as amended, was read the third time, and passed.

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

## PROVIDING TECHNICAL, FINANCIAL, AND PROCUREMENT ASSISTANCE TO VETERAN-OWNED SMALL BUSINESSES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 254, H.R. 1568.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1568) to provide technical, financial, and procurement assistance to veteran-owned small businesses, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BOND. Mr. President, it is with great pleasure and enthusiasm that I rise in support of the Veterans Entrepreneurship and Small Business Development Act of 1999 (H.R. 1568). This bill is a critical building block in our efforts to provide significantly improved help to small businesses owned and operated by veterans and especially those small businesses owned by service-disabled veterans. This bill was approved by a unanimous vote of 18–0 in the Committee on Small Business after the Committee approved a substitute amendment that I offered with the Committee's Ranking Member, Senator KERRY.

Over the past two years, as the Chairman of the Committee on Small Business, I have brought three bills to the Senate floor that place a special emphasis on helping veteran entrepreneurs. The need for this legislation became necessary as Federal support for veteran entrepreneurs, particularly service-disabled veterans, has declined. Significantly, support for veteran small business owners historically has been weak at the Small Business Administration (SBA).

The Veterans Entrepreneurship and Small Business Development Act of 1999 seeks to provide assistance to veteran-owned small businesses to enable them to start-up and grow their businesses. The bill places a specific emphasis on small businesses owned and controlled by service-disabled veterans and directs SBA to undertake special initiatives on behalf of all veteran small business owners.

H.R. 1568 has key provisions that are of particular importance to veterans. The bill establishes a federally chartered corporation called the National Veterans Business Development Corporation (Corporation/NVBDC), whose purpose is to create a network of information and assistance centers to improve assistance for veterans who wish to start-up or expand a small businesses. The Corporation will be governed by a board of directors appointed by the President, who will take into consideration recommendations from the Chairmen and Ranking Members from the Committees on Small Business and Veterans Affairs of the Senate and House of Representatives before making appointments to the board. Although funds are authorized during the first four years of the Corporation, it is the expectation of the Committee on Small Business that it will become self-sufficient and will no longer need Federal assistance after this four year start-up period.

In an effort to make its programs more readily available to veteran entrepreneurs, the SBA is required to ensure that the SCORE Program and the Small Business Development Center (SBDC) Program work directly with the Corporation so that veteran entrepreneurs receive technical support and other needed assistance.

H.R. 1568 places special emphasis on credit programs at SBA that can be helpful to veterans, and especially service-disabled veterans. The bill specifically targets veterans for the 7(a) guaranteed business loan program, the 504 Development Company Loan Program, and the Microloan Program.

A key component of H.R. 1568 is to make Federal government contracts more readily available to service disabled veterans who own and control

small businesses. The bill includes an annual goal of 3% of all Federal contract dollars for these small business owners. This goal is seen as an incentive to Federal agencies to undertake a major effort to make their procurement activities more accessible to veterans who made major sacrifices for our Nation.

During the markup of H.R. 1568, the Committee approved a requirement that the Office of Federal Procurement Policy (OFPP) collect data to be reported annually to Congress on the number and dollar value of contracts and subcontracts awarded by Federal agencies to veteran-owned small businesses and service-disabled veteran-owned small businesses. This new requirement is critical if we are to measure the success of Federal agencies in meeting this 3% goal.

Last year, the Committee on Small Business approved new initiatives to strengthen the mandate that SBA's programs be more responsive to all veteran small business owners. The ''Year 2000 Readiness and Small Business Restructuring and Reform Act of 1998'' (H.R. 3412) directed that veterans receive comprehensive help at SBA. This bill passed the Senate unanimously in September 1998; unfortunately, it was not taken up by the House of Representatives before the adjournment in the fall. The bill would have elevated the Office of Veterans Affairs at SBA to the Office of Veterans Business Development, to be headed by an Associate Administrator who would report directly to the SBA Administrator. This provision is contained in H.R. 1568.

In addition, H.R. 3412 would have established an Advisory Committee on Veterans' Business Affairs comprised of veterans who own small businesses and representatives of national veterans service organizations. The bill also would have established the position of National Veterans' Business Coordinator within the Service Corps of Retired Executives (SCORE) Program. This new position would work within the SBA headquarters to ensure that SCORE's programs nationwide included entrepreneurial counseling and training for veterans. Both initiatives from H.R. 3412 are included in H.R. 1568.

More recently, on June 6, 1999, the Committee approved the Military Reservists Small Business Relief Act of 1999 (S. 918) to assist military reservists called to active duty and the small businesses that employ them. This bill complements the provisions of the Veterans Entrepreneurship and Small Business Development Act. Accordingly, the Committee voted unanimously to incorporate the full text of S. 918 into Title III (Technical Assistance) and Title IV (Financial Assistance) of H.R. 1568.

During and after the Persian Gulf War in the early 1990's, the Committee heard from reservists whose businesses were harmed, severely crippled, or even lost, by their absence. These hardships can occur during a period of national emergency or during a period of contingency operation when troops are deployed overseas. To help such reservists and their small businesses, H.R. 1568 authorizes a deferral of loan repayments on any SBA direct loan, including a disaster loan, for an eligible small business. SBA is authorized to reduce the interest rate on the direct loans.

SBA is also directed to publish guidelines within 30 days of enactment of the legislation to help its lending partners in the 7(a) guaranteed business loan program and the 504 Development Company program to develop procedures for providing loan repayment relief to small businesses that have been adversely affected by the departure of an essential employee to active military duty. Further, the bill establishes a low-interest economic injury loan program to be administered by the SBA through its disaster loan program. The purpose of these loans will be to provide interim operating capital to a small business that suffers substantial economic injury as a result of the departure of its essential employee to active duty and cannot obtain credit elsewhere.

Mr. President, I have also introduced a non-controversial amendment to H.R. 1568, which would require the President, rather than the SBA Administrator, to appoint the voting members of the board of directors of the National Veterans Business Development Corporation. Senator KERRY has cosponsored this amendment. This change was requested by the Chairman and Ranking Member of the House Committee on Small Business. It is my understanding that with the adoption of this amendment and Senate passage of the H.R. 1568, as amended, that the House of Representatives is prepared to take up and pass the bill later this evening.

We have an opportunity today to approve an excellent bill to help veteran small business owners, and I urge my colleagues to support both my amendment and the bill.

Mr. KERRY. Mr. President, I support this bill. A little more than a year ago, SBA Administrator Aida Alvarez formed a task force to study the needs of veterans with a talent, skill, dream or need to start their own business. I commend the Administrator for her initiative. And thanks to the quick and earnest work of the task force representatives, particularly the Veterans Service Organizations and advocacy groups, a report was drafted in three short months.

H.R. 1568 gives life to many of the 21 report recommendations. Appropriately, it includes S. 918, the Military Reservists Small Business Relief Act of 1999—the fourteenth report recommendation—that I introduced on March 29th and the full Senate passed by unanimous consent last week, on July 27th. Reservists have been asking for this safety net since 1991 to keep their businesses going while they are called to active duty. I am glad that we will again put this bill one step closer to enactment for the men and women who—whether deployed in Iraq, Bosnia or Kosovo—could benefit from the provisions of this bill now.

These provisions should already be available for those who need it, and I deeply regret that it wasn't enacted earlier, either as S. 918 or as part of this bill, H.R. 1568. The nature of the provisions are uncontroversial. As S. 918, it passed the Committee on Small Business June 9th, almost 60 days ago, by unanimous consent and has 51 Senators co-sponsors—21 Republicans and 30 Democrats. Since then, it has also passed the full House and the Senate Committee on Small Business as part of this bill before us tonight, H.R. 1568.

As much as I am frustrated by the delay, it probably doesn't compare to that of reservists who are on active duty and losing sleep over how they are going to keep their businesses going and avoid ruining their credit records. Ask the truck driver who serves in the Missouri National Air Guard and reported to active duty more than four months ago. He bought a new rig shortly before being called up and has hefty monthly payments to meet. He lined up a replacement to drive his truck while he was gone to keep money coming in, but the driver backed out of the agreement right before the reservist was to leave.

He tried to do the right thing—to implement a contingent plan—and yet something beyond his control interfered. It's hard to keep your customers happy when their merchandise isn't getting delivered. And it's even harder to make your loan payments when you're not bringing in enough money.

Or ask the reservist from Oklahoma who has supported his wife and four children for the past five years with a carpet and upholstery business. In 1998, he was called up for eight months, and he's been active this year since May 8th. What made it particularly damaging for his business this year was that he was called up at the beginning of the industry's high season. January to April are slow times, and April to December are the money-making months. He called my office a month ago to find out about this bill and find out how he could get assistance.

Though this bill was still waiting for action by the full Senate, we put him in contact with the SBA office in Oklahoma City to find some way to help. After reviewing his options and what it would take to resuscitate his business, he called to say that he was closing shop for good: ''I'm just going to close my business down. I'm not going to try to get a small business loan. I want to cut my losses now. . . .''

I look forward to spreading the message that reservists, such as this man from Oklahoma, will soon be able to apply for loan deferrals, reductions on interest rates, low-interest disaster loans, and get training assistance for

the employee or family left behind to run their businesses.

Importantly, this bill goes further, making more comprehensive changes for all veterans. Incorporating other recommendations that are designed to help service-disabled veterans and veteran form and expand small businesses, H.R. 1568—

Elevates the SBA's Office of Veterans Affairs so that it has more credibility and visibility.

Creates a federally chartered corporation to facilitate technical and management assistance to veteran entrepreneurs.

Establishes a three-percent procurement goal for service-disabled veteran-owned businesses.

Requires the Federal Procurement Data System to collect data on the percentage and dollar value of prime contracts and subcontracts awarded to small businesses owned and controlled by veterans and service-disabled veterans.

According to the SBA and the Department of Veterans Administration, out of the estimated 22 million veterans in this country, 4 million own their own businesses. I encourage the SBA and the veterans groups to use these tools to make real progress in expanding and strengthening small businesses owned by veterans and service-disabled veterans so that they can have the dignity and financial benefits of self-sufficiency.

Mr. President, I thank my colleagues for supporting veterans and small business. It's one vote that will help thousands.

AMENDMENT NO. 1617

(Purpose: To make amendments with respect to the Board of Directors of the National Veterans Business Development Corporation)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for Mr. BOND, for himself, and Mr. KERRY, proposes an amendment numbered 1617.

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

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

The amendment is as follows:

On page 55, strike line 5 and all that follows through page 56, line 15, and insert the following:

''(2) APPOINTMENT OF VOTING MEMBERS.—The President shall, after considering recommendations which shall be proposed by the Chairmen and Ranking Members of the Committees on Small Business and the Committee on Veterans Affairs of the House of Representatives and the Senate, appoint United States citizens to be voting members of the Board, not more than 5 of whom shall be members of the same political party.

On page 57, line 11, strike ''Administrator'' and insert ''President''.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee substitute be agreed to, the bill be read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill ber printed in the RECORD.

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

The amendment (No. 1617) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (H.R. 1568), as amended, was passed.

## RELATING TO THE RECENT ELECTIONS IN THE REPUBLIC OF INDONESIA

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 233, S. Res. 166.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 166) relating to the recent elections in the Republic of Indonesia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the resolution be agreed to, as amended, the preamble be agreed to, the motion to lay upon the table be agreed to, and that any statements appear at this point in the RECORD.

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

The committee amendment was agreed to.

The resolution (S. Res. 166), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 166

Whereas the Republic of Indonesia is the world's fourth most populous country, has the world's largest Muslim population, and is the second largest country in East Asia;

Whereas Indonesia has played an increasingly important leadership role in maintaining the security and stability of Southeast Asia, especially through its participation in the Association of Southeast Asian Nations (ASEAN);

Whereas in response to the wishes of the people of Indonesia, President Suharto resigned on May 21, 1998, in accordance with Indonesia's constitutional processes;

Whereas the government of his successor, President Bacharuddin J. Habibie, has pursued a transition to genuine democracy, establishing a new governmental structure, and developing a new political order;

Whereas President Habibie signed several bills governing elections, political parties, and the structure of legislative bodies into law on February 1, 1999, and scheduled the first truly democratic national election since 1955;

Whereas on June 7, 1999, elections were held for the Dewan Perwakilan Rakyat (DPR) which, despite some irregularities, were deemed to be free, fair, and transparent according to international and domestic observers;

Whereas over 100 million people, more than ninety percent of Indonesia's registered voters, participated in the election, demonstrating the Indonesian people's dedication to democracy;

Whereas the ballot counting process has been completed and the unofficial results announced;

Whereas the official results will be announced in the near future, and it is expected by all parties that the official results will mirror the unofficial results; and

Whereas Indonesia's military has indicated that it will abide by the results of the election: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the people of Indonesia on carrying out the first free, fair, and transparent national elections in forty-four years;

(2) supports the aspirations of the Indonesian people in pursuing a transition to genuine democracy;

(3) calls upon all Indonesian leaders, political party members, military personnel, and the general public to respect the outcome of the elections, and to uphold that outcome pending the selection of the new President by the Majelis Permusyawaratan Rakyat (MPR) later this year;

(4) calls for the convening of the MPR and the selection of the next President as soon as practicable under Indonesian law, *and in a transparent manner*, in order to reduce the impact of continued uncertainty on the country's political stability and to enhance the prospects for the country's economic recovery;

(5) calls upon the present ruling Golkar party to work closely with any successor government in assuring a smooth transition to a new government; and

(6) urges the present government, and any new government, to continue to work to ensure a stable and secure environment in East Timor by—

(A) assisting in disarming and disbanding any militias on the island;

(B) granting full access to East Timor to groups such as the United Nations, international humanitarian organizations, human rights monitors, and similar nongovernmental organizations; and

(C) upholding its commitment to cooperate fully with the United Nations Assistance Mission for East Timor (UNAMET).

## CENTENNIAL OF FLIGHT COMMEMORATION ACT OF 1999

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 202, S. 1072.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1072) to make certain technical and other corrections relating to Centennial of Flight Commemoration Act (36 U.S.C. 143 note; 112 Stat. 3486 et seq.)

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1618

(Purpose: To clarify certain duties of the Centennial of Flight Commission.)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for Mr. DEWINE, Mr. HELMS, and Mr. VOINOVICH, proposes an amendment numbered 1618.

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

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

The amendment is as follows:

On page 5, strike lines 4 through 9 and insert the following.

''(6) provide advice and recommendations, through the Administrator of the National Aeronautics and Space Administration or the Administrator of the Federal Aviation Administration (or any employee of such an agency head under the direction of that agency head), to individuals and organizations that wish to conduct their own activities in celebration of the centennial of flight, and maintain files of information and lists of experts on related subjects that can be disseminated on request;

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 1618) was agreed to.

AMENDMENT NO. 1619

(Purpose: To make a technical correction to S. 1072, a bill making technical and other corrections relating to the Centennial of Flight Commemoration Act. (36 U.S.C. 143 note: 112 STATE.3486 et seq.)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for Mr. HELMS, for himself, Mr. DEWINE and Mr. VOINOVICH, proposes an amendment numbered 1619.

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

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

The amendment is as follows:

In Section 1.(A)(ii) after the word ''Foundation';'' insert the following ''and in paragraph (3) strike the word ''chairman'' and insert the word ''president.''

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The amendment (No. 1619) was agreed to.

The bill (S. 1072), as amended, was passed, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

## PROVIDING ASSISTANCE FOR POISON PREVENTION AND FUNDING OF REGIONAL POISON CENTERS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 252, S. 632.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 632) to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

There being no objection, the Senate proceeded to consider the bill.

Mr. BOND. Mr. President, I rise to thank my colleague from Ohio for his hard work on this very important bill. The work our nation's poison control centers do is absolutely essential to the safety and health of our children. Not only do poison control centers save lives, they significantly reduce our health care costs by helping American families deal quickly, safely, and efficiently with a poisoning emergency.

Mr. DEWINE. The Senator from Missouri is exactly right. It is perhaps difficult to imagine just how concerned parents must be when they discover that their child has been exposed to a substance that might have damaging health effects. They don't know what type of harm might happen to their child—or whether any harm will happen. But the possibility is there—and to a parent, that threat can truly be frightening. In these emergency situations, the poison control center experts can quickly help parents determine the appropriate response. They might tell the parents that whatever substance that child has been exposed to doesn't pose a health threat at all. Other times, that threat is real, and the poison control center can help parents administer immediate treatment at home or provide treatment advice until the parents can get the child to the nearest emergency room. Either way, the poison control center is absolutely essential in responding to the emergency by providing immediate treatment advice when the emergency is real and providing peace of mind for the parents and reducing unnecessary healthcare and hospitalization when the exposure does not pose a health threat to the child.

Mr. BOND. Doesn't this bill clarify how the proposed national toll-free number will affect existing, privately funded toll-free numbers?

Mr. DEWINE. This bill makes clear that the establishment of a national toll-free number to access poison control centers should not be interpreted as prohibiting the establishment or continued operation of any privately funded nationwide toll-free number used by agricultural pesticide companies, consumer products companies, pharmaceutical companies, and other groups who fund their own toll-free customer service numbers in the event of a poisoning or accidental exposure involving one of their own products. We also make clear that none of the funds that this bill authorizes may be used to help private companies fund their own toll-free numbers. We just want to clarify that this bill neither funds nor prohibits private entities from funding their own toll-free customer service numbers. I thank my colleague for his comments and for his strong support of this bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The committee amendment was agreed to.

The bill (S. 632), as amended, was read the third time, and passed, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

## PROVIDING FOR MINERAL LEASING OF CERTAIN INDIAN LANDS IN OKLAHOMA

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 244, S. 944.

The PRESIDING OFFICER. The clerk will report the bill by title.

A bill (S. 944) to amend Public Law 105–188 to provide for the mineral leasing of certain Indian Lands in Oklahoma.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 944) was read the third time and passed, as follows:

S. 944

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MINERAL LEASING OF CERTAIN INDIAN LANDS IN OKLAHOMA.**

Public Law 105–188 (112 Stat. 620 and 621) is amended—

(1) in the title, by inserting ''and certain former Indian reservations in Oklahoma'' after ''Fort Berthold Indian Reservation''; and

(2) in section 1—

(A) by striking the section heading and inserting the following:

**''SECTION 1. LEASES OF CERTAIN ALLOTTED LANDS.'';**

and

(B) in subsection (a)(1)(A), by striking clause (i) and inserting the following:

''(i) is located within—

''(I) the Fort Berthold Indian Reservation in North Dakota; or

''(II) a former Indian reservation located in Oklahoma of—

''(aa) the Comanche Indian Tribe;

''(bb) the Kiowa Indian Tribe;

''(cc) the Apache Tribe;

''(dd) the Fort Sill Apache Tribe of Oklahoma;

''(ee) the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie) located in Oklahoma;

''(ff) the Delaware Tribe of Western Oklahoma; or

''(gg) the Caddo Indian Tribe; and''.

## ASIA-PACIFIC ECONOMIC COOPERATION FORUM

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 232, S. Con. Res. 48.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 48) relating to the Asia-Pacific Economic Cooperation Forum.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 48) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 48

Whereas the Asia-Pacific Economic Cooperation (APEC) Forum was created ten years ago to promote free and open trade and closer economic cooperation among its member countries, as well as to sustain economic growth and equitable development in the region for the common good of its people;

Whereas the twenty-one member countries of APEC account for 55 percent of total world income and 46 percent of global trade;

Whereas APEC leaders are committed to intensifying regional economic interdependence by going forward with measures to expand trade and investment liberalization, pursuing sectoral cooperation and development initiatives, and increasing business facilitation and economic and technical cooperation projects;

Whereas a strong international financial system underpins the economic success of the region;

Whereas, given the challenges presented by the financial crisis, APEC leaders last year pledged to work together in improving and strengthening social safety nets, financial systems and capital markets, trade and investment flows, corporate sector restructuring, the regional scientific and technological base, human resources development, economic infrastructure, and existing business and commercial links for the purpose of supporting sustained growth into the 21st century;

Whereas the outstanding leadership of New Zealand during its year in the APEC Chair has produced a series of important themes for the annual APEC Leaders meeting in Auckland, New Zealand on September 12–14, 1999, including—

(1) expanding opportunities for private sector businesses through the reduction of tariff and nontariff barriers;

(2) strengthening the functioning of regional markets, with a particular focus on building institutional capacity, making public and corporate economic governance arrangements more transparent, and guiding regulatory reform so that benefits of trade liberalization are maximized; and

(3) broadening support for and understanding of APEC goals to demonstrate the positive benefits of the organization's work for the entire Asia-Pacific community;

Whereas the unique and close partnership between the public and private sectors exhibited through the APEC Forum has contributed to the successful conclusion of the GATT Uruguay Round and agreement over other multilateral trade pacts involving information technology, telecommunications and financial services;

Whereas APEC member countries have provided helpful momentum, through active consideration of the Early Voluntary Sectoral Liberalization plan, to the next round of multilateral trade negotiations scheduled to begin later this year at the Third WTO Ministerial Meeting in Seattle, Washington; and

Whereas the APEC leaders have resolved to achieve the ambitious goal of free and open trade and investment in the region no later than 2010 for the industrialized economies and 2020 for developing economies: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. SENSE OF CONGRESS.**

It is the sense of Congress that Congress—

(1) acknowledges the importance of greater economic cooperation in the Asia-Pacific region and the key role played by the Asia-Pacific Economic Cooperation (APEC) Forum;

(2) urges the administration fully to support the APEC forum and work to achieve its goals of greater economic growth and stability;

(3) calls upon the administration to continue its close cooperation with the private sector in advancing APEC goals; and

(4) expresses appreciation to the Government and people of New Zealand for their exceptional efforts in chairing the APEC Forum this year.

**SEC. 2. TRANSMITTAL OF RESOLUTION.**

The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

## TRADE AGENCY AUTHORIZATIONS, DRUG FREE BORDERS, AND PREVENTION OF ON-LINE CHILD PORNOGRAPHY ACT OF 1999

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 218, H.R. 1833.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1833) to authorize appropriations for fiscal years 2000 and 2001 for the United States Customs Service for drug interdiction and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Customs Authorization Act of 1999''.*

***SEC. 2. TABLE OF CONTENTS.***

*The table of contents for this Act is as follows:*

*Sec. 1. Short title.*
*Sec. 2. Table of contents.*
*TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTION*
*Sec. 101. Authorization of appropriations.*
*Sec. 102. Cargo inspection and narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and Gulf Coast seaports; internal management improvements.*
*Sec. 103. Peak hours and investigative resource enhancement for the United States-Mexico and United States-Canada borders, Florida and Gulf Coast seaports, and the Bahamas.*
*Sec. 104. Agent rotations; elimination of backlog of background investigations.*
*Sec. 105. Air and marine operation and maintenance funding.*
*Sec. 106. Compliance with performance plan requirements.*
*Sec. 107. Transfer of aerostats.*
*Sec. 108. Report on intelligence requirements.*
*Sec. 109. Authorization of appropriations for program to prevent child pornography and sexual exploitation of children.*
*TITLE II—CUSTOMS MANAGEMENT*
*Sec. 201. Term and salary of the Commissioner of Customs.*
*Sec. 202. Internal compliance.*
*Sec. 203. Report on personnel flexibility.*
*Sec. 204. Report on implementation of personnel allocation model.*
*Sec. 205. Report on detection and monitoring requirements along the southern tier and northern border.*
*TITLE III—MARKING VIOLATIONS*
*Sec. 301. Civil penalties for marking violations.*

***TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTION***

***SEC. 101. AUTHORIZATION OF APPROPRIATIONS.***

*(a) DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL OPERATIONS.—Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)) are amended to read as follows:*

*''(A) $1,029,608,384 for fiscal year 2000.*

*''(B) $1,111,450,668 for fiscal year 2001.''.*

*(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:*

*''(i) $1,251,794,435 for fiscal year 2000.*

*''(ii) $1,348,676,435 for fiscal year 2001.''.*

*(c) AIR AND MARINE INTERDICTION.—Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)(A) and (B)) are amended to read as follows:*

*''(A) $229,001,000 for fiscal year 2000.*

*''(B) $176,967,000 for fiscal year 2001.''.*

*(d) SUBMISSION OF BUDGET PROJECTIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:*

*''(3) By no later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate the budget request submitted to the Secretary of the Treasury estimating the amount of funds for that fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).''.*

*(e) AUTHORIZATION OF APPROPRIATIONS FOR MODERNIZING CUSTOMS SERVICE COMPUTER SYSTEMS.—*

*(1) ESTABLISHMENT OF AUTOMATION MODERNIZATION WORKING CAPITAL FUND.—There is established within the United States Customs Service an Automation Modernization Working Capital Fund (in this section referred to as the ''Fund''). The Fund shall consist of the amounts authorized to be appropriated under paragraph (2) and shall be used to implement a program for modernizing the Customs Service computer systems, to maintain the existing computer systems until a modernized computer system is fully implemented, and for related computer system modernization activities.*

*(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Fund $242,000,000 for fiscal year 2000 and $336,000,000 for fiscal year 2001. The amounts authorized to be appropriated under this paragraph shall remain available until expended.*

*(3) REPORT AND AUDIT.—*

*(A) REPORT.—The Commissioner of Customs shall, not later than March 31 and September 30 of each year, report to the Comptroller General of the United States, the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate regarding the progress being made in the modernization of the Customs Service computer systems. Each report shall—*

*(i) include explicit criteria used to identify, evaluate, and prioritize investments for computer systems modernization planned for the Customs Service for each of fiscal years 2000 through 2004;*

*(ii) provide a schedule for mitigating any deficiencies identified by the General Accounting Office and for developing and implementing all computer systems modernization projects;*

*(iii) provide a plan for expanding the utilization of private sector sources for the development and integration of computer systems; and*

*(iv) contain timely schedules and resource allocations for implementing the modernization of the Customs Service computer systems.*

*(B) AUDIT.—Not later than 30 days after a report described in subparagraph (A) is received, the Comptroller General of the United States shall audit the report and shall provide the results of the audit to the Commissioner of Customs, to the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives, and to the Committee on Appropriations and the Committee on Finance of the Senate.*

***SEC. 102. CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND GULF COAST SEAPORTS; INTERNAL MANAGEMENT IMPROVEMENTS.***

*(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, $116,436,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, and for internal management improvements as follows:*

*(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following amounts shall be available:*

*(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).*

*(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.*

*(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).*

*(D) $7,200,000 for 8 1–MeV pallet x-rays.*

*(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.*

*(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.*

*(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.*

*(H) $2,450,000 for 7 automated targeting systems.*

*(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.*

*(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.*

*(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.*

*(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.*

*(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.*

*(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.*

*(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.*

*(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.*

*(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.*

*(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.*

*(S) $1,000,000 for a demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2–MeV) to 6,000,000 electron volts (6–MeV) at a shared Department of Defense testing facility for a two-month testing period.*

*(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following amounts shall be available:*

*(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).*

*(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.*

*(C) $3,600,000 for 4 1–MeV pallet x-rays.*

*(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.*

*(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.*

*(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.*

*(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.*

*(H) $600,000 for 30 fiber optic scopes.*

*(I) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.*

*(J) $3,000,000 for 10 x-ray vans with particle detectors.*

*(K) $40,000 for 8 AM loop radio systems.*

*(L) $400,000 for 100 vehicle counters.*

*(M) $1,200,000 for 12 examination tool trucks.*

*(N) $2,400,000 for 3 dedicated commuter lanes.*

*(O) $1,050,000 for 3 automated targeting systems.*

*(P) $572,000 for 26 weigh-in-motion sensors.*

*(Q) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).*

*(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following amounts shall be available:*

*(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).*

*(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.*

*(C) $7,200,000 for 8 1–MeV pallet x-rays.*

*(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.*

*(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.*

*(4) INTERNAL MANAGEMENT IMPROVEMENTS.—For internal management improvements, the following amounts shall be available:*

*(A) $2,500,000 for automated systems for management of internal affairs functions.*

*(B) $700,000 for enhanced internal affairs file management systems.*

*(C) $2,700,000 for enhanced financial asset management systems.*

*(D) $6,100,000 for enhanced human resources information system to improve personnel management.*

*(E) $2,700,000 for new data management systems for improved performance analysis, internal and external reporting, and data analysis.*

*(F) $1,700,000 for automation of the collection of key export data as part of the implementation of the Automated Export system.*

*(b) TEXTILE TRANSSHIPMENT.—Of the amounts made available for fiscal years 2000 and 2001 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $3,364,435 shall be available for each fiscal year for textile transshipment enforcement.*

*(c) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $9,923,500 shall be available for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).*

*(d) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—*

*(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—*

*(A)(i) is technologically superior to the equipment described in subsection (a); and*

*(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or*

*(B) is technologically equivalent to the equipment described in subsection (a) and can be obtained at a lower cost than the equipment described in subsection (a).*

*(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 25 percent of—*

*(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);*

*(B) the amount specified in any of subparagraphs (A) through (Q) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (Q); and*

*(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).*

***SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS, FLORIDA AND GULF COAST SEAPORTS, AND THE BAHAMAS.***

*(a) IN GENERAL.—Of the amounts made available for fiscal years 2000 and 2001 under subparagraphs (A) and (B) of section 301(b)(1) of*

*the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)), as amended by section 101(a) of this Act, $181,864,800 for fiscal year 2000 (including $5,673,600 until expended for investigative equipment) and $230,983,340 for fiscal year 2001 shall be available for the following:*

*(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border, and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.*

*(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border and a net increase of 125 inspectors to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border.*

*(3) A net increase of 40 special agents and 10 intelligence analysts to facilitate the activities of the additional inspectors authorized under paragraphs (1) and (2).*

*(4) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.*

*(5) A net increase of 70 special agent positions, 23 intelligence analyst positions, 9 support staff positions, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's seaports.*

*(6) A net increase of 360 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.*

*(7) A net increase of 2 special agent positions to re-establish a Customs Attache office in Nassau.*

*(8) A net increase of 62 special agent positions and 8 intelligence analyst positions for maritime smuggling investigations and interdiction operations.*

*(9) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.*

*(10) The costs incurred as a result of the increase in personnel hired pursuant to this section.*

*(b) RELOCATION OF PERSONNEL.—Notwithstanding any other provision of this section, the Commissioner of Customs may reduce the amount of additional personnel provided for in any of paragraphs (1) through (9) of subsection (a) by not more than 25 percent, if the Commissioner of Customs makes a corresponding increase in the personnel provided for in one or more of such paragraphs (1) through (9).*

*(c) NET INCREASE.—In this section, the term ''net increase'' means an increase in the number of employees in each position described in this section over the number of employees in each such position that was provided for in fiscal year 1999.*

***SEC. 104. AGENT ROTATIONS; ELIMINATION OF BACKLOG OF BACKGROUND INVESTIGATIONS.***

*Of the amounts made available for fiscal years 2000 and 2001 under section 301(b)(1) (A) and (B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1) (A) and (B)), as amended by section 101(a) of this Act, $16,000,000 for fiscal year 2000 (including $10,000,000 until expended) and $6,000,000 for fiscal year 2001 shall be available to—*

*(1) provide additional funding to clear the backlog of existing background investigations and to provide for background investigations during extraordinary recruitment activities of the agency; and*

*(2) provide for the interoffice transfer of up to 100 special agents, including costs related to relocations, between the Office of Investigations and Office of Internal Affairs, at the discretion of the Commissioner of Customs.*

***SEC. 105. AIR AND MARINE OPERATION AND MAINTENANCE FUNDING.***

*(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)), as amended by section 101(c) of this Act, $130,513,000 shall be available until expended for the following:*

*(1) $96,500,000 for Customs Service aircraft restoration and replacement initiative.*

*(2) $15,000,000 for increased air interdiction and investigative support activities.*

*(3) $19,013,000 for marine vessel replacement and related equipment.*

*(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 101(c) of this Act, $75,524,000 shall be available until expended for the following:*

*(1) $36,500,000 for Customs Service aircraft restoration and replacement.*

*(2) $15,000,000 for increased air interdiction and investigative support activities.*

*(3) $24,024,000 for marine vessel replacement and related equipment.*

***SEC. 106. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.***

*(a) IN GENERAL.—As part of the annual performance plan for each of fiscal years 2000 and 2001, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall evaluate the benefits of the activities authorized to be carried out pursuant to sections 102 through 105 of this Act.*

*(b) ENFORCEMENT PERFORMANCE MEASURES.—The Commissioner of Customs is authorized to contract for the review and assessment of enforcement performance goals and indicators required by section 1115 of title 31, United States Code, with experts in the field of law enforcement, from academia, and from the research community. Any contract for review or assessment conducted pursuant to this subsection shall provide for recommendations of additional measures that would improve the enforcement strategy and activities of the Customs Service.*

*(c) REPORT TO CONGRESS.—The Commissioner of Customs shall submit any assessment, review, or report provided for under this section to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.*

***SEC. 107. TRANSFER OF AEROSTATS.***

*(a) IN GENERAL.—The President shall submit a plan for funding the acquisition and operation by the Customs Service of tethered aerostat radar systems currently operated by the Department of the Air Force and scheduled for replacement in fiscal year 2001.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to permit the operation and maintenance of the aerostat radar systems, after the systems are transferred to the Customs Service.*

***SEC. 108. REPORT ON INTELLIGENCE REQUIREMENTS.***

*The Commissioner of Customs shall, not later than 1 year of the date of enactment of this Act, provide the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with—*

*(1) an assessment of the intelligence- and information-gathering capabilities and needs of the Customs Service;*

*(2) the impact of any limitations on the intelligence and information gathering capabilities necessary for adequate enforcement of the customs laws of the United States and other laws enforced by the Customs Service; and*

*(3) a report detailing the Commissioner's recommendations for improving the agency's capabilities.*

***SEC. 109. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY AND SEXUAL EXPLOITATION OF CHILDREN.***

*(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Customs Service $10,000,000 for fiscal year 2000 to carry out the program to prevent child pornography and sexual exploitation of children established by the Child Cyber-Smuggling Center of the Customs Service.*

*(b) USE OF AMOUNTS FOR CHILD PORNOGRAPHY CYBER TIPLINE.—Of the amount appropriated under subsection (a), the Customs Service shall provide 3.75 percent of such amount to the National Center for Missing and Exploited Children for the operation of the child pornography cyber tipline of the Center and for increased public awareness of the tipline.*

## *TITLE II—CUSTOMS MANAGEMENT*

***SEC. 201. TERM AND SALARY OF THE COMMISSIONER OF CUSTOMS.***

*(a) TERM.—*

*(1) GENERAL REQUIREMENTS.—The first section of the Act entitled ''An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury'', approved March 3, 1927 (19 U.S.C. 2071) is amended—*

*(A) by striking ''There shall be'' and inserting ''(a) IN GENERAL.—There shall be'';*

*(B) in the second sentence—*

*(i) by inserting ''for a term of 5 years'' after ''Senate'';*

*(ii) by striking ''and'' at the end of paragraph (2);*

*(iii) by striking the period at the end of paragraph (3) and inserting ''; and''; and*

*(iv) by adding at the end the following new paragraph:*

*''(4) have demonstrated ability in management.''; and*

*(C) by adding at the end the following:*

*''(b) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed only for the remainder of that term.*

*''(c) REMOVAL.—The Commissioner may be removed at the will of the President.*

*''(d) REAPPOINTMENT.—The Commissioner may be appointed to more than one 5-year term.''.*

*(2) CURRENT OFFICE HOLDER.— In the case of an individual serving as the Commissioner of Customs on the date of enactment of this Act, who was appointed to such position before such date, the 5-year term required by the first section of the Act entitled ''An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury'', as amended by this section, shall begin as of the date of such appointment.*

*(b) SALARY.—*

*(1) IN GENERAL.—*

*(A) Section 5315 of title 5, United States Code, is amended by striking the following item:*

*''Commissioner of Customs, Department of the Treasury.''.*

*(B) Section 5314 of title 5, United States Code, is amended by inserting at the end the following item:*

*''Commissioner of Customs, Department of the Treasury.''.*

*(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1999.*

***SEC. 202. INTERNAL COMPLIANCE.***

*(a) ESTABLISHMENT OF INTERNAL COMPLIANCE PROGRAM.—The Commissioner of Customs shall—*

*(1) establish, within the Office of Internal Affairs, a program of internal compliance designed to enhance the performance of the basic mission*

*of the Customs Service to ensure compliance with all applicable laws and, in particular, with the implementation of title VI of the North American Free Trade Agreement Implementation Act (commonly referred to as the ''Customs Modernization Act'');*

*(2) institute a program of ongoing self-assessment and conduct a review on an annual basis of the performance of all core functions of the Customs Service;*

*(3) identify deficiencies in the current performance of the Customs Service with respect to commercial operations, enforcement, and internal management and propose specific corrective measures to address such concerns; and*

*(4) within 6 months of the date of enactment of this Act, and annually thereafter, provide the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with a report on the programs and reviews conducted under this subsection.*

*(b) EVALUATION AND REPORT ON BEST PRACTICES.—The Commissioner of Customs shall, as part of the development of an improved system of internal compliance, initiate a review of current best practices in internal compliance programs among government agencies and private sector organizations and, not later than 18 months after the date of enactment of this Act, report on the results of the review to the Committee on Governmental Affairs and the Committee on Finance of the Senate and the Committee on Government Reform and the Committee on Ways and Means of the House of Representatives.*

*(c) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of the Treasury shall review and audit the implementation of the programs described in subsection (a) as part of the Inspector General's report required under the Inspector General Act of 1978 (5 U.S.C. App).*

***SEC. 203. REPORT ON PERSONNEL FLEXIBILITY.***

*Not later than 6 months after the date of enactment of this Act, the Commissioner of Customs shall submit to the Committee on Governmental Affairs and the Committee on Finance of the Senate and the Committee on Government Reform and the Committee on Ways and Means of the House of Representatives a report on the Commissioner's recommendations for modifying existing personnel rules to permit more effective management of the resources of the Customs Service and for improving the ability of the Customs Service to fulfill its mission. The report shall also include an analysis of why the flexibility provided under existing personnel rules is insufficient to meet the needs of the Customs Service.*

***SEC. 204. REPORT ON IMPLEMENTATION OF PERSONNEL ALLOCATION MODEL.***

*Not later than 6 months after the date of enactment of this Act, the Commissioner of Customs shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the implementation of the personnel allocation model under development in the Customs Service.*

***SEC. 205. REPORT ON DETECTION AND MONITORING REQUIREMENTS ALONG THE SOUTHERN TIER AND NORTHERN BORDER.***

*Not later than 6 months after the date of enactment of this Act, the Commissioner of Customs shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the requirements of the Customs Service for counterdrug detection and monitoring of the arrival zones along the southern tier and northern border of the United States. The report shall include an assessment of—*

*(1) the performance of existing detection and monitoring equipment, technology, and personnel;*

*(2) any gaps in radar coverage of the arrival zones along the southern tier and northern border of the United States; and*

*(3) any limitations imposed on the enforcement activities of the Customs Service as a result of the reliance on detection and monitoring equipment, technology, and personnel operated under the auspices of the Department of Defense.*

***TITLE III—MARKING VIOLATIONS***

***SEC. 301. CIVIL PENALTIES FOR MARKING VIOLATIONS.***

*Section 304(l) of the Tariff Act of 1930 (19 U.S.C. 1304(l)) is amended—*

*(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;*

*(2) by striking ''Any person'' and inserting ''(1) IN GENERAL.—Any person'';*

*(3) by moving the remaining text 2 ems to the right; and*

*(4) by adding at the end the following new paragraph:*

*''(2) CIVIL PENALTIES.—Any person who defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under this section shall be liable for a civil penalty of not more than $10,000 for each violation. The civil penalty imposed under this subsection shall be in addition to any marking duties owed under subsection (i).''.*

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The bill (H.R. 1833), as amended, was passed.

The title was amended so as to read: ''An Act to authorize appropriations for the United States Customs Service, and for other purposes.''

## UNANIMOUS CONSENT AGREEMENT—H.R. 1905

Mr. BROWNBACK. Mr. President, I now ask unanimous consent that when the Senate receives from the House the conference report to accompany H.R. 1905, it be considered and agreed to, the motion to consider be laid upon the table, and that any statements relating to the conference report be printed in the RECORD.

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

Mrs. FEINSTEIN. Mr. President, I will be pleased to join the Chairman of the Legislative Branch Appropriations Subcommittee, Senator BENNETT, in presenting to the Senate what I believe is a very good conference agreement on the Fiscal Year 2000 budget.

Under the strong leadership of Chairman BENNETT, as well as Mr. TAYLOR, the House Appropriations Subcommittee Chairman, and Mr. PASTOR, the Ranking Democrat on the House Subcommittee, we were able to work our differences in a way that ensures that the essential functions for which appropriations are contained in this bill are able to continue their operations and to carry out their responsibilities efficiently and without any diminution of service.

In all, the recommendations that we are presenting today total just over $2.45 billion, almost $21 million below the Subcommittee's allocation. In reaching compromises on the various issues in the conference, Chairman BENNETT was very careful to ensure that the cuts did not unnecessarily impair the programs where those cut were taken. I shared the concerns of the Chairman that these reductions be carefully considered as to their effects, before they were agreed to.

In his statement, Chairman BENNETT has already laid out to the Senate the details of the conference agreement, which I will not repeat at this time.

I wish to congratulate the Chairman, Senator BENNETT, for his hard work throughout the year on this bill. This was my first year to serve as the Ranking Member of this important Subcommittee, and Senator BENNETT could not have been more helpful to me and my staff. It has been a real pleasure to work at his side on this bill and I look forward to continuing to work with him on all matters that are in the jurisdiction of the Legislative Branch Appropriations Subcommittee.

Finally, Mr. President, I thank the staff who have worked so diligently throughout the year in assisting Chairman BENNETT and myself—Mary Dewald, who recently left the Committee staff, Edie Stanley, her successor, and Jim English, as well as Chris Kierig of my staff. They, together with Christine Ciccone, the Majority Clerk of the Subcommittee, and Chip Yost of Senator BENNETT'S staff, have carried out their responsibilities in their usual, highly professional manner. Our staffs work together, as do Chairman BENNETT and I, in a non-partisan way so that the decisions that we have made throughout the year have been reached based on objective considerations, rather than partisanship.

Mr. President, I urge adoption of this conference report.

## EXPORT-IMPORT BANK OF THE UNITED STATES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that H.R. 2565 be discharged from the Banking Committee, and the Senate now proceed to its consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2565) to clarify the quorum requirement for the Board of Directors of the Export-Import Bank of the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 2565) was passed.

## ''THOMAS S. FOLEY FEDERAL BUILDING AND UNITED STATES COURTHOUSE''

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 249, H.R. 211.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 211) to designate the Federal building and the United States courthouse located at West 920 Riverside Avenue in Spokane, Washington, as the ''Thomas S. Foley Federal Building and United States Courthouse'' and the plaza at the south entrance of such building and courthouse as the ''Walter F. Horan Plaza.''

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to lay upon the table be agreed to, and that any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 211) was read the third time and passed.

## AUTHORITIES TO THE UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. 1546, introduced earlier today by Senators NICKLES, LIEBERMAN and HAGEL.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1546) to amend the International Religious Freedom Act of 1998 to provide additional administrative authorities to the United States Commission on International Religious Freedom, and to make technical corrections to that act.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1546) was read the third time and passed, as follows:

S. 1546

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ADMINISTRATIVE AUTHORITIES OF THE UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM.**

(a) ESTABLISHMENT AND COMPOSITION.—Section 201 of the International Religious Freedom Act of 1998 (22 U.S.C. 6401 et seq.) is amended—

(1) in subsection (c)—

(A) by striking ''The'' and inserting ''(1) IN GENERAL.—The'';

(2) by inserting after the first sentence the following new sentences: ''The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission.''; and

(3) by amending subsection (h) to read as follows:

''(h) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a non-reimbursable basis) such administrative support services as the Commission may request to carry out the provisions of this title.''.

(b) POWERS OF THE COMMISSION.—The International Religious Freedom Act of 1998 (22 U.S.C. 6401 et seq.) is amended—

(1) by striking section 202(f);

(2) by redesignating sections 203, 204, 205, and 206 as sections 205, 206, 207, and 209, respectively;

(3) by inserting after section 202 the following:

**''SEC. 203. POWERS OF THE COMMISSION.**

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out its duties under this title, hold hearings, sit and act at times and places in the United States, take testimony and receive evidence as the Commission considers advisable to carry out the purposes of this Act.

''(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

''(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(d) ADMINISTRATIVE PROCEDURES.—The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out the provisions of this title.

''(e) VIEWS OF THE COMMISSION.—The Members of the Commission may speak in their capacity as private citizens. Statements on behalf of the Commission shall be issued in writing over the names of the Members. The Commission shall in its written statements clearly describe its statutory authority, distinguishing that authority from that of appointed or elected officials of the United States Government. Oral statements, where practicable, shall include a similar description.

''(f) TRAVEL.—The Members of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out the purpose of this title. Each trip must be approved by a majority of the Commission. This provision shall not apply to the Ambassador-at-Large, whose travel shall not require approval by the Commission.

**''SEC. 204. COMMISSION PERSONNEL MATTERS.**

''(a) IN GENERAL.—The Commission may, without regard to the civil service laws and regulations, appoint and terminate an Executive Director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The decision to employ or terminate an Executive Director shall be made by an affirmative vote of at least six of the nine members of the Commission.

''(b) COMPENSATION.—The Commission may fix the compensation of the Executive Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

''(c) PROFESSIONAL STAFF.—The Commission and the Executive Director shall hire Commission staff on the basis of professional and nonpartisan qualifications. Commissioners may not individually hire staff of the Commission. Staff shall serve the Commission as a whole and may not be assigned to the particular service of a single Commissioner or a specified group of Commissioners. This subsection does not prohibit staff personnel from assisting individual members of the Commission with particular needs related to their duties.

''(d) STAFF AND SERVICES OF OTHER FEDERAL AGENCIES.—

''(1) DEPARTMENT OF STATE.—The Secretary of State shall assist the Commission by providing on a reimbursable or non-reimbursable basis to the Commission such staff and administrative services as may be necessary and appropriate to perform its functions.

''(2) OTHER FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable or non-reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its functions under this title. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

''(e) SECURITY CLEARANCES.—The Executive Director shall be required to obtain a security clearance. The Executive Director may request, on an needs-only basis and in order to perform the duties of the Commission, that other personnel of the Commission be required to obtain a security clearance. The level of clearance shall be the lowest necessary to appropriately perform the duties of the Commission.'';

* * * * *

* * * COST.—The Commission shall reimburse all appropriate government agencies for the cost of obtaining clearances for members of the Commission, for the executive director, and for any other personnel;

(4) in section 207(a) (as redesignated by this Act), by striking all that follows ''3,000,000'' and inserting ''to carry out the provisions of this title.''; and

(5) by inserting after section 207 (as redesignated) the following:

**''SEC. 208. STANDARDS OF CONDUCT AND DISCLOSURE.**

''(a) COOPERATION WITH NONGOVERNMENTAL ORGANIZATIONS, THE DEPARTMENT OF STATE, AND CONGRESS.—The Commission shall seek to effectively and freely cooperate with all entities engaged in the promotion of

religious freedom abroad, governmental and nongovernmental, in the performance of the Commission's duties under this title.

''(b) CONFLICT OF INTEREST AND ANTINEPOTISM.—

''(1) MEMBER AFFILIATIONS.—Except as provided in paragraph (3), in order to ensure the independence and integrity of the Commission, the Commission may not compensate any nongovernmental agency, project, or person related to or affiliated with any member of the Commission, whether in that member's direct employ or not. Staff employed by the Commission may not serve in the employ of any nongovernmental agency, project, or person related to or affiliated with any member of the Commission while employed by the Commission.

''(2) STAFF COMPENSATION.—Staff of the Commission may not receive compensation from any other source for work performed in carrying out the duties of the Commission while employed by the Commission.

''(3) EXCEPTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) shall not apply to payments made for items such as conference fees or the purchase of periodicals or other similar expenses, if such payments would not cause the aggregate value paid to any agency, project, or person for a fiscal year to exceed $250.

''(B) LIMITATION.—Notwithstanding subparagraph (A), the Commission shall not give special preference to any agency, project, or person related to or affiliated with any member of the Commission.

''(4) DEFINITIONS.—In this subsection, the term ''affiliated'' means the relationship between a member of the Commission and—

''(A) an individual who holds the position of officer, trustee, partner, director, or employee of an agency, project, or person of which that member, or relative of that member of, the Commission is an officer, trustee, partner, director, or employee; or

''(B) a nongovernmental agency or project of which that member, or a relative of that member, of the Commission is an officer, trustee, partner, director, or employee.

''(c) CONTRACT AUTHORITY.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Commission may contract with an compensate government agencies or persons for the conduct of activities necessary to the discharge of its functions under this title. Any such person shall be hired without interruption or loss of civil service or Foreign Service status or privilege. The Commission may not procure temporary and intermittent services under section 3109(b) of title 5, United States Codes, or under other contracting authority other than that allowed under this title.

''(2) EXPERT STUDY.—In the case of a study requested under section 605 of this Act, the Commission may, subject to the availability of appropriations, contract with experts and shall provide the funds for such a study. The Commission shall not be required to provide the funds for that part of the study conducted by the Comptroller General of the United States.

''(d) GIFTS.—

''(1) IN GENERAL.—In order to preserve its independence, the Commission may not accept, use, or dispose of gifts or donations of services or property. An individual Commissioner or employee of the Commission may not, in his or her capacity as a Commissioner or employee, knowingly accept, use or dispose of gifts or donations of services or property, unless he or she in good faith believes such gifts or donations to have a value of less than $50 and a cumulative value during a calendar year of less than $100.

''(2) EXCEPTIONS.—This subsection shall not apply to the following:

''(A) Gifts provided on the basis of a personal friendship with a Commissioner or employee, unless the Commissioner or employee has reason to believe that the gift was provided because of the Commissioner's position and not because of the personal friendship.

''(B) Gifts provided on the basis of family relationship.

''(C) The acceptance of training, invitations to attend or participate in conferences or such other events as are related to the conduct of the duties of the Commission, or food or refreshment associated with such activities.

''(D) Items of nominal value or gifts of estimated value of $10 or less.

''(E) De minimis gifts provided by a foreign leader or state, not exceeding a value of $260. Gifts believed by Commissioners to be in excess of $260, but which would create offense or embarrassment to the United States Government if refused, shall be accepted and turned over to the United States Government in accordance with the Foreign Gifts and Decorations Act of 1966 and the rules and regulations government such gifts provided to Members of Congress.

''(F) Informational materials such as documents, books, videotapes, periodicals, or other forms of communications.

''(G) Goods or services provided by any agency or component of the Government of the United States, including any commission established under the authority of such Government.

''(e) ANNUAL FINANCIAL REPORT.—In addition to providing the reports required under section 202, the Commission shall provide, each year no later than January 1, to the Committees on International Relations and Appropriations of the House of Representatives, and to the Committees on Foreign Relations and Appropriations of the Senate, a financial report detailing and identifying its expenditures for the preceding fiscal year.''.

''(c) AUTHORIZATION OF APPROPRIATIONS.—Section 209 of the International Religious Freedom Act of 1988 (22 U.S.C. 6436) (as redesignated) is amended by striking ''4 years after the initial appointment of all the Commissioners'' and inserting ''on May 14, 2003.''.

**SEC. 2. TECHNICAL CORRECTIONS.**

(a) PRESIDENTAL ACTIONS.—Section 402(c) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(c)) is amended—

(1) in paragraph (1), in the text above subparagraph (A), by striking ''and (4)'' and inserting ''(4), and (5)''; and

(2) in paragraph (4)—

(A) by inserting ''UNDER THIS ACT'' after ''EXCEPTION FOR ONGOING PRESIDENTIAL ACTION'';

(B) by inserting ''and'' at the end of subparagraph (B);

(C) by striking at the end of subparagraph (C) ''; and'' and inserting a period; and

(D) in subparagraph (D), by striking ''(D) at'' and inserting ''(5) EXCEPTION FOR ONGOING, MULTIPLE, BROAD-BASED SANCTIONS IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.— At''.

(b) CLERICAL CORRECTION.—Section 201(b)(1)(B)(iii) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431(b)(1)(B)(iii)) is amended by striking ''three'' and inserting ''Three''.

## APPRECIATION OF CONGRESS FOR THE SERVICE OF THE U.S. ARMY PERSONNEL WHO LOST THEIR LIVES IN AN ANTIDRUG MISSION IN COLOMBIA

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 176, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A resolution (S. Res. 176) expressing the appreciation of the Congress for the service of United States Army personnel who lost their lives in the service of this country in the antidrug mission in Colombia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 176) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 176

Whereas Colombia is the largest source of cocaine and heroin entering the United States and efforts to assist that country combat the production and trafficking of illicit narcotics is in the national security interests of the United States;

Whereas operations by the United States Armed Forces to assist in the detection and monitoring of illicit production and trafficking of illicit narcotics are important to the security and well-being of all of the people of the United States;

Whereas on July 23, 1999, five United States Army personnel, assigned to the 204th Military Intelligence Battalion at Fort Bliss, Texas, and two Colombia military officials, were killed in a crash during an airborne reconnaissance mission over the mountainous Putumayo province of Colombia; and

Whereas the United States Army has identified Captain José A. Santiago, Captain Jennifer J. Odem, Chief Warrant Officer, W–2, Thomas G. Moore, Private First Class T. Bruce Cluff, and Private First Class Ray E. Krueger as the United States personnel killed in the crash while performing their duty: Now, therefore, be it

*Resolved that the Senate—*

(1) expresses its profound appreciation for the service of Captain José A. Santiago, Captain Jennifer J. Odem, Chief Warrant Officer, W–2, Thomas G. Moore, Private First Class T. Bruce Cluff, and Private First Class Ray E, Krueger, all of the United States Army, who lost their lives in service of their country during an antidrug mission in Colombia;

(2) expresses its sincere sympathy to the families and loved ones of the United States and Colombian personnel killed during that mission;

(3) urges United States and Colombian officials to take all practicable measures to recover the remains of the victims and to fully inform the family members of the circumstances of the accident which cost their lives;

(4) expresses its gratitude to all members of the United States Armed Forces who fight the scourge of illegal drugs and protect the security and well-being of all people of the United States through their detection and monitoring of illicit production and trafficking of illicit narcotics; and

(5) directs that a copy of this resolution be transmitted to the family members of Captain José A. Santiago, Captain Jennifer J.

Odem, Chief Warrant Officer, W–2, Thomas G. Moore, Private First Class T. Bruce Cluff, and Private First Class Ray E. Krueger, to the Commander of Fort Bliss, Texas, and to the Secretary of Defense.

## NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 177, introduced earlier today by Senator WELLSTONE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 177) designating September 1999 as ''National Alcohol and Drug Addiction Recovery Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 177) was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 177

Whereas alcohol and drug addiction is a devastating disease that can destroy lives and communities.

Whereas the direct and indirect costs of alcohol and drug addiction cost the United States more than $246,000,000,000 each year.

Whereas scientific evidence demonstrates the crucial role that treatment plays in restoring those suffering from alcohol and drug addiction to more productive lives.

Whereas the Secretary of Health and Human Services has recognized that 73 percent of people who currently use illicit drugs in the United States are employed and that the effort business invests in substance abuse treatment will be rewarded by raising productivity, quality, and employee morale, and lowering health care costs associated with substance abuse.

Whereas the role of the workplace in overcoming the problem of substance abuse among Americans is recognized by the United States Chamber of Commerce, the Small Business Administration, the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, the Substance Abuse and Mental Health Services Administration, the Community Anti-Drug Coalitions of American, the National Coalition on Alcohol and Other Drug Issues, the National Association of Alcoholism and Drug Abuse Counselors, and the National Substance Abuse Coalition, and others.

Whereas the Director of the Office of National Drug Control Policy has recognized that providing effective drug treatment to those in need is critical to breaking the cycle of drug addiction and to helping those who are addicted become productive members of society.

Whereas these agencies and organizations have recognized the critical role of the workplace in supporting efforts towards recovery from addiction by establishing the theme of Recovery Month to be ''Addiction Treatment: Investing in People for Business Success''.

Whereas the countless numbers of those who have successfully recovered from addition are living proof that people of all races, genders, and ages recover every day from the disease of alcohol and drug addiction, and now make positive contributions to their families, workplaces, communities, States, and nation: Now, therefore, be it

*Resolved,* That the Senate designates September, 1999, as ''National Alcohol and Drug Addiction Recovery Month''.

## AMENDMENT OF THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT AND THE MILLER ACT

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 1219, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1219) to amend the Office of Federal Procurement Policy Act and the Miller Act, relating to payment protections for persons providing labor and materials for Federal construction projects.

There being no objection, the Senate proceeded to consider the bill.

Mr. THOMPSON. Mr. President, I am pleased to recommend H.R. 1219, the ''Construction Industry Payment Protection Act of 1999'' to the full Senate for passage. This bill, introduced in the House by a bipartisan list of cosponsors, is intended to modernize the Miller Act, one of our oldest procurement laws. The Committee on Governmental Affairs, with jurisdiction over Federal procurement laws, recognizes and appreciates the broad and strong support for this measure.

The Miller Act is a 1935 law requiring prime contractors with Federal construction contracts over $100,000 to provide bonds on those projects to protect those providing labor and materials. Currently, the Miller Act requires two types of bonds on Federal construction contracts: A payment bond to guarantee that subcontractors get paid, limited under the 1935 Act to $2.5 million and never adjusted for inflation; and a performance bond to protect the Federal government and ensure that the project gets finished. This bond is equal to the value of the project.

H.R. 1219 would amend the Miller Act to require that the payment bond be at least equal to the performance bond. It also establishes standards by which subcontractor rights under the Miller Act can be waived, and it provides for more modern methods by which claims can be noticed.

This bill represents an impressive consensus and several years of hard work by all the interested parties: the general contractors, the subcontractors, and the surety firms who supply the bonds. In addition, the Administration has issued a Statement of Administration Policy in support of the measure. Earlier this week, H.R. 1219 passed the House by a roll call vote of 416–0. I respectfully urge my colleagues to support this measure.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

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

The bill (H.R. 1219) was read the third time and passed.

## PRIVATE RELIEF

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed en bloc to the following bills which were reported today by the Judiciary Committee:

S. 199, S. 275, and S. 452.

I further ask unanimous consent that any committee amendments be agreed to where applicable, the bills be read a third time and passed, the motions to reconsider be laid on the table, and that any statements relating to the bills be printed in the RECORD with the above occurring en bloc.

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

The bills (S. 199, S. 275, and S. 452) were passed en bloc, as follows:

S. 199

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENCE.**

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

**SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.**

Upon the granting of permanent residence to Alexandre Malofienko, Olga Matsko, and their son, Vladimir Malofienko, as provided in section 1, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

S. 275

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR SUCHADA KWONG.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Suchada Kwong shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Suchada Kwong enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall

apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Suchada Kwong, the Secretary of State shall instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

S. 452

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENCE.**

(a) Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Belinda McGregor shall be held and considered to have been selected for a diversity immigrant visa for fiscal year *2000* as of the date of the enactment of this Act upon payment of the required visa fee.

(b) ADJUSTMENT OF STATUS.—If Belinda McGregor, or any child (as defined in section 101(b)(1) of the Immigration and Nationality Act) of Belinda McGregor, enters the United States before the date of the enactment of this Act, he or she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

**SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.**

Upon the granting of permanent residence to Belinda McGregor as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)).

RELIEF OF VOVA MALOFIENKO, OLGA MATSKO, AND ALEXANDER MALOFIENKO

Mr. LAUTENBERG. Mr. President, I am extremely pleased that the Senate has passed legislation that will provide permanent residency in the United States for 15-year-old Vova Malofienko and his family.

In order to understand the importance of this legislation, you need to know more about Vova. He was born in Chernigov, Ukraine, just 30 miles from the Chornobyl nuclear reactor. In 1986, when he was just two, the reactor exploded and he was exposed to high levels of radiation. He was diagnosed with lleukemia in June 1990, shortly before his sixth birthday.

Through the efforts of the Children of Chornobyl Relief Fund, Vova and his mother came to the United States with seven other children to attend Paul Newman's ''Hole in the Wall'' camp in Connecticut. While in this country, Vova was able to receive extensive cancer treatment and chemotherapy. In November of 1992, his cancer went into remission.

Regrettably, the other children from Chornobyl were not as fortunate. They returned to the Ukraine and they died one by one because of inadequate cancer treatment. Not a child survived.

The air, food, and water in the Ukraine are still contaminated with radiation and are perilous to those like Vova who have a weakened immune system. Additionally, cancer treatment available in the Ukraine is not as sophisticated as treatment available in the United States. Although Vova completed his chemotherapy in 1992, he continues to need medical follow-up on a consistent basis, including physical examinations, lab work and radiological examinations to assure early detection and prompt and appropriate therapy in the unfortunate event the leukemia recurs.

Because of his perilous medical condition, Vova and his family have done everything possible to remain in the United States. I tried to help by supporting their visa applications to the Immigration and Naturalization Service, and by sponsoring this legislation. The passage of this measure is the culmination of many years of hard work by Vova, his family, and members of the Millburn community.

Throughout all of these struggles, Vova has been an inspiration to all. An honors student at Milburn Middle School, he has been an eloquent spokesperson for children with cancer. He has rallied the community and helped bring out the best in everyone. His dedication, grace, and dignity provide an outstanding example, not just to young people, but to all Americans.

I am pleased to have been able to help Vova and his family. I want to thank the House sponsors of this legislation, Representatives ROTHMAN and FRANKS, for their efforts in support of this legislation. I also want to thank Senators ABRAHAM, HATCH, LEAHY, and KENNEDY for moving this bill through the legislative process. It has been an honor to work on Vova's behalf, and I hope that he and his family enjoy great success and much happiness in the years ahead.

## RETURN OF ZACHARY BAUMEL, A U.S. CITIZEN, AND OTHER ISRAELI SOLDIERS

Mr. BROWNBACK. Mr. President, I now ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 187, H.R. 1175.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1175) to locate and secure the return of Zachary Baumel, a United States citizen, and other Israeli soldiers missing in action.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with an amendment on page 4, line 5, to insert the word ''credible''.

H.R. 1175

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONGRESSIONAL FINDINGS.**

The Congress finds that—

(1) Zachary Baumel, a United States citizen serving in the Israeli military forces, has been missing in action since June 1982 when he was captured by forces affiliated with the Palestinian Liberation Organization (PLO) following a tank battle with Syrian forces at Sultan Ya'akub in Lebanon;

(2) Yehuda Katz and Zvi Feldman, Israeli citizens serving in the Israeli military forces, have been missing in action since June 1982 when they were also captured by these same forces in a tank battle with Syrian forces at Sultan Ya'akub in Lebanon;

(3) these three soldiers were last known to be in the hands of a Palestinian faction splintered from the PLO and operating in Syrian-controlled territory, thus making this a matter within the responsibility of the Government of Syria;

(4) diplomatic efforts to secure the release of these individuals have been unsuccessful, although PLO Chairman Yasser Arafat delivered one-half of Zachary Baumel's dog tag to Israeli Government authorities; and

(5) in the Gaza-Jericho agreement between the Palestinian Authority and the Government of Israel of May 4, 1994, Palestinian officials agreed to cooperate with Israel in locating and working for the return of Israeli soldiers missing in action.

**SEC. 2. ACTIONS WITH RESPECT TO MISSING SOLDIERS.**

(a) CONTINUING COMMUNICATION WITH CERTAIN GOVERNMENTS.—The Secretary of State shall continue to raise the matter of Zachary Baumel, Yehuda Katz, and Zvi Feldman on an urgent basis with appropriate government officials of Syria, Lebanon, the Palestinian Authority, and with other governments in the region and elsewhere that, in the determination of the Secretary, may be helpful in locating and securing the return of these soldiers.

(b) PROVISION OF ECONOMIC AND OTHER ASSISTANCE TO CERTAIN GOVERNMENTS.—In deciding whether or not to provide United States economic and other forms of assistance to Syria, Lebanon, the Palestinian Authority, and other governments in the region, and in deciding United States policy toward these governments and authorities, the President should take into consideration the willingness of these governments and authorities to assist in locating and securing the return of the soldiers described in subsection (a).

**SEC. 3. REPORTS BY SECRETARY OF STATE.**

(a) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a written report that describes the efforts of the Secretary pursuant to section 2(a) and United States policies affected pursuant to section 2(b).

(b) SUBSEQUENT REPORTS.—Not later than 15 days after receiving from any source any additional *credible* information relating to the individuals described in section 2(a), the Secretary of State shall prepare and submit to the committees described in subsection (a) a written report that contains such additional information.

(c) FORM OF REPORTS.—A report submitted under subsection (a) or (b) shall be made available to the public and may include a classified annex.

AMENDMENT NO. 1620

(Purpose: To amend H.R. 1175, a bill to assist in locating and securing the return of Zachary Baumel, a United States citizen, and other Israeli soldiers missing in action)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. BROWNBACK) for Mr. LEAHY proposes an amendment numbered 1620.

In H.R. 1175, replace subsection (b) of SEC. 2 with:

On page 3 strike lines 11–20 and insert the following:

(b) PROVISION OF ASSISTANCE TO CERTAIN GOVERNMENTS.—In deciding whether or not to provide United States assistance to any government or authority which the Secretary of State believes has information concerning the whereabouts of the soldiers described in subsection (a), and in formulating United States policy towards such government or authority, the President should take into consideration the willingness of the government or authority to assist in locating and securing the return of such soldiers.

Mr. LEAHY. Mr. President, I strongly support this Resolution, which seeks to hasten the return of Zachary Baumel, a United States citizen, and other Israeli soldiers missing in action.

My staff met with Mr. Baumel's mother, and she described a heart-wrenching account of over 17 years of trying to obtain information about her son, Zachary, who in 1982, while serving in the Israeli military, was captured after a tank battle with Syrian forces in Lebanon. He has not been heard from since, and the only evidence she has recovered is half of Mr. Baumel's dog tag which was delivered by Yasser Arafat to the Israeli Government.

According to the Department of State, the Palestinian Authority has provided information which could lead to locating and securing the return of Mr. Baumel. This contrasts with the total lack of cooperation from either Syrian or Lebanese authorities. The fact remains that Mr. Baumel's whereabouts remains a mystery.

I hope this Resolution gives some solace to the families of Mr. Baumel and the two other Israeli soldiers who are missing. Their disappearance is unquestionably a matter of deep concern to the Congress. It is unconscionable that these families have yet to be told of the fate of their loved ones.

The amendment I have offered, which modifies one provision in HR 1175 that is of particular interest to the Foreign Operations Subcommittee of which I am Ranking Member, has been approved by both the House and Senate sponsors of the bill and the family of Mr. Baumel, and is supported by the State Department. It was drafted in a sincere effort to make it more likely that this Resolution leads to the result that the families intend, and to preserve the role of the United States Government as an honest broker in the Middle East peace process.

Mr. CAMPBELL. Mr. President, today I urge my colleagues to support passage of the pending legislation, H.R. 1175, a bill to help locate and secure the return of Zachary Baumel, a citizen of the United States, and two other Israeli soldiers who have been missing in action for more than sixteen years. I introduced the Senate version of this legislation, S. 676, which has gathered the support of 34 Senate cosponsors, and in June, the House passed H.R. 1175 by a recorded vote of 415–5.

Although information concerning the whereabouts of Sgt. Baumel and his comrades has been reported since their disappearance after a battle in Northern Lebanon in 1982, Palestinian cooperation on this situation has come to a halt as no new information has been forthcoming. This legislation requires the State Department to raise this issue with the Palestinian Authority and the Syrian government and requires cooperation on this issue to be considered in future aid to the Palestinian Authority.

Mr. President, I thank Senator HELMS, the Chairman of the Senate Foreign Relations Committee, for his leadership in moving this legislation to the full Senate. The passage of this legislation is a critical step in helping the families of these soldiers who have been forced to live with the pain and uncertainty of this loss for more than 16 years. Resolving the issue of these Israeli MIAs can only strengthen American efforts to make Middle East peace into a reality.

I urge my colleagues to support final passage of this important piece of legislation.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment was agreed to.

The amendment (No. 1620) was agreed to.

The bill (H.R. 1175), as amended, was read the third time, and passed.

## KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 261, S. 620.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 620) to grant a Federal charter to the Korean War Veterans Association, Incorporated, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (S. 620) was read the third time and passed, as follows:

S. 620

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.**

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

**"CHAPTER 1201—[RESERVED]"**;

and

(2) by inserting the following:

**"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED**

''Sec.
''120101. Organization.
''120102. Purposes.
''120103. Membership.
''120104. Governing body.
''120105. Powers.
''120106. Restrictions.
''120107. Duty to maintain corporate and tax-exempt status.
''120108. Records and inspection.
''120109. Service of process.
''120110. Liability for acts of officers and agents.
''120111. Annual report.

**"§ 120101. Organization**

''(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), incorporated in the State of New York, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

**"§ 120102. Purposes**

''The purposes of the corporation are as provided in its articles of incorporation and include—

''(1) organizing, promoting, and maintaining for benevolent and charitable purposes an association of persons who have seen honorable service in the Armed Forces during the Korean War, and of certain other persons;

''(2) providing a means of contact and communication among members of the corporation;

''(3) promoting the establishment of, and establishing, war and other memorials commemorative of persons who served in the Armed Forces during the Korean War; and

''(4) aiding needy members of the corporation, their wives and children, and the widows and children of persons who were members of the corporation at the time of their death.

**"§ 120103. Membership**

''Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

**"§ 120104. Governing body**

''(a) BOARD OF DIRECTORS.—The board of directors of the corporation, and the responsibilities of the board of directors, are as provided in the articles of incorporation of the corporation.

''(b) OFFICERS.—The officers of the corporation, and the election of the officers of the corporation, are as provided in the articles of incorporation.

**"§ 120105. Powers**

"The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**"§ 120106. Restrictions**

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

**"§ 120107. Duty to maintain corporate and tax-exempt status**

"(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**"§ 120108. Records and inspection**

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**"§ 120109. Service of process**

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

**"§ 120110. Liability for acts of officers and agents**

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**"§ 120111. Annual report**

"The corporation shall submit an annual report to Congress on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by striking the item relating to chapter 1201 and inserting the following new item:

"1201. Korean War Veterans Association, Incorporated .....120101".

## E–911 ACT OF 1999

Mr. BROWNBACK. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 255, S. 800.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 800) to promote and enhance public safety through the use of 9–1–1 as the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous, and reliable networks for personal wireless services, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which was reported from the Committee on Commerce, Science, and Transportation, with amendments.

Mr. BROWNBACK. I ask unanimous consent that the committee amendments be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 800), as amended, was read the third time and passed, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

E–911 ACT OF 1999

Mr. BURNS. Mr. President, I am very pleased that the Senate has unanimously passed the "e–911 Act of 1999."

The e–911 bill is simple—it makes 911 the universal emergency number. This bill will help save lives and is supported by a broad range of public safety, emergency medical, consumer and citizen groups. These groups represent the operators and users of the 911 system, those with direct experience with the problems with today's system.

Over seventy million Americans carry wireless telephones. Many carry them for safety reasons. People count on those phones to be their lifelines in emergencies. In fact, 98,000 people are counting on their wireless phones in emergencies everyday. That is how many wireless 911 calls are made a day, 98,000. But there's a problem. In many parts of our country, when the frantic parent or the suddenly disabled older person punches 911 on the wireless phone, nothing happens. In those locations, 911 is not the emergency number. The ambulance and the police won't be coming. You may be facing a terrible emergency, but you're on your own, because you don't know the local number to call for emergencies.

"The e–911 Act of 1999" will help fix that problem by making 911 the number to call in an emergency—anytime, everywhere. The rule in America ought to be uniform and simple—if you have an emergency, wherever you are, dial 911.

More and more, wireless communications is the critical link that can help get emergency medical care to those in the "golden hour" when timely care can mean the difference between life and death.

I thank my colleagues for their hard work in passing this critical legislation.

## ORDER FOR FILING LEGISLATIVE MATTERS

Mr. BROWNBACK. I ask unanimous consent that, notwithstanding the adjournment of the Senate, committees have from 11 a.m. until 1 p.m. on Friday, August 27, in order to file legislative matters.

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

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 106–5

Mr. BROWNBACK. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following convention transmitted to the Senate on August 5, 1999, by the President of the United States, that being Convention No. 182 for Elimination of the Worst Forms of Child Labor, Treaty Document 106–5. I further ask that the convention be considered as having been read the first time, that it be referred, with accompanying papers, to the Committee on Foreign Relations, and the President's message be printed in the RECORD.

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

The message of the President is as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification of the Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, adopted by the International Labor Conference at its 87th Session in Geneva on June 17, 1999, I transmit herewith a certified copy of that Convention. I transmit also for the Senate's information a certified copy of a recommendation (No. 190) on the same subject, adopted by the International Labor Conference on the same date, which amplifies some of the Convention's provisions. No action is called for on the recommendation.

The report of the Department of State, with a letter from the Secretary of Labor, concerning the Convention is enclosed.

As explained more fully in the enclosed letter from the Secretary of Labor, current United States law and practice satisfy the requirements of Convention No. 182. Ratification of this Convention, therefore, should not require the United States to alter in any way its law or practice in this field.

In the interest of clarifying the domestic application of the Convention, my Administration proposes that two understandings accompany U.S. ratification.

The proposed understandings are as follows:

—The United States understands that Article 3(d) of Convention 182 does not encompass situations in which children are employed by a parent or by a person standing in the place of a parent on a farm owned or operated by such parent or person.

—The United States understands that the term ''basic education'' in Article 7 of Convention 182 means primary education plus one year: eight or nine years of schooling, based on curriculum and not age.

These understandings would have no effect on our international obligations under Convention No. 182.

Convention No. 182 represents a true breakthrough for the children of the world. Ratification of this instrument will enhance the ability of the United States to provide global leadership in the effort to eliminate the worst forms of child labor. I recommend that the Senate give its advice and consent to the ratification of ILO Convention No. 182.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 5, 1999*.

## ORDER FOR NOMINATIONS TO REMAIN IN STATUS QUO

Mr. BROWNBACK. Mr. President, as in executive session, I ask unanimous consent that all nominations received by the Senate during the 106th Congress remain in status quo, notwithstanding the August adjournment of the Senate and the provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate, with the following exceptions, which I send to the desk.

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

The exceptions are as follows:

Richard W. Bogosian, of Maryland, for the rank of Ambassador during his tenure of service as Special Coordinator for Rwanda/Burundi.

Paula J. Dobriansky, of Virginia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2001. (Reappointment.)

Charles H. Dolan, Jr., of Virginia, to be a Member of the United States Advisory Commission on Public Diplomacy for term expiring July 1, 2000. (Reappointment.)

Frank J. Guarini, of New Jersey, to be U.S. Representative to the Fifty-second session of the General Assembly of the United Nations.

Regina Montoya, of Texas, to be U.S. Representative to the Fifty-third Session of the General Assembly of the United Nations.

Hassan Nemazee, of New York, to be Ambassador to Argentina.

Bill Richardson, of New Mexico, to be U.S. Representative to the Forty-second Session of the General Conference of the International Atomic Energy Agency.

Jack J. Spitzer, of Washington, to be Alternate U.S. Representative to the Fifty-second Session of the General Assembly of the United Nations.

The following named Member of the Foreign Service of the Department of Commerce, to be Secretary in the Diplomatic Service of the United States of America: David Gussack, of Washington.

JUDICIARY

Barbara Durham of Washington.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. BROWNBACK. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations en bloc: Executive Calendar Nos. 166, 167, 191, 195, 198, 199, 217, 218, 219, 220, 221 through 226, and all nominations on the Secretary's desk in the Foreign Service, the nomination of Mervyn Mosbacker, reported today by the Judiciary Committee. I further ask consent that the following list of nominations be discharged from the Banking Committee and the Foreign Relations Committee, and the Senate proceed to their consideration as well.

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

The list is as follows:

From the Foreign Relations Committee:

Jeffrey A. Bader, of Florida, to be Ambassador to the Republic of Namibia;

Martin G. Brennan, of California, to be Ambassador to the Republic of Uganda;

Tibor P. Nagy, Jr., of Texas, to be Ambassador to the Federal Democratic Republic of Ethiopia;

Barbro A. Owens-Kirkpatrick, of California, to be Ambassador to the Republic of Niger.

From the Banking, Housing, and Urban Affairs Committee:

Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisors; and

Robert Z. Lawrence, of Massachusetts, to be a Member of the Council of Economic Advisors,

Mr. BROWNBACK. I ask unanimous consent that the nominations be considered and confirmed en bloc, the motion to reconsider be laid upon the table, any statements be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

COMMODITY FUTURES TRADING COMMISSION

William J. Rainer, of New Mexico, to be Chairman of the Commodity Futures Trading Commission.

William J. Rainer, of New Mexico, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 2004.

DEPARTMENT OF STATE

M. Osman Siddique, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga, and Ambassador Extraordinary and Plenipotentiary of the United States of America to Tuvalu.

Richard Monroe Miles, of South Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bulgaria.

Barbara J. Griffiths, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland.

Sylvia Gaye Stanfield, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. John M. Pickler, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Larry R. Jordan, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. James T. Hill, 0000

DEPARTMENT OF THE INTERIOR

Earl E. Devaney, of Massachusetts, to be Inspector General, Department of the Interior.

DEPARTMENT OF DEFENSE

Charles A. Blanchard, of Arizona, to be General Counsel of the Department of the Army.

Carol DiBattiste, of Florida, to be Under Secretary of the Air Force.

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Larry T. Ellis, 0000

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

David M. Crocker, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Mark A. Young, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Susan Garrison, and ending Richard Tsutomu Yoneoka, which nominations were received by the Senate and appeared in the Congressional Record of July 1, 1999.

UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF TEXAS

Mervyn M. Mosbacker, Jr., of Texas, to be United States Attorney for the Southern District of Texas for the term of four years vice Gaynelle Griffin Jones, resigned.

SENIOR FOREIGN SERVICE

Jeffrey A. Bader, of Florida, a Career Member of the Senior Foreign Service, Class of

Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Namibia.

Martin George Brennan, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

Tibor P. Nagy, Jr., of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Democratic Republic of Ethiopia.

Barbro A. Owens-Kirkpatrick, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

COUNCIL OF ECONOMIC ADVISORS

Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisors.

Robert Z. Lawrence, of Massachusetts, to be a Member of the Council of Economic Advisors.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

## REPORTS OF CONTRIBUTIONS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the reports of contributions of the nominees discharged today from the Committee on Foreign Relations be printed in the RECORD.

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

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

Jeffrey A. Bader, of Florida, to be Ambassador to the Republic of Namibia.

Nominee: Jeffrey A. Bader.

Post: Namibia.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, Rohini Talalla, none.
3. Children and spouses, Odoric Brechet-Bader, none.
4. Parents, Samuel and Grace Bader (deceased).
5. Grandparents, Harry and Ida Rosenblum (deceased); Jacob and Jenny Bader (deceased).
6. Brothers and spouses, Lawrence Bader and Margaret Warner (wife), none, Kenneth Bader, none.
7. Sisters and spouses, none.

Martin G. Brennan, of California, to be Ambassador to the Republic of Uganda.

Nominee: Martin George Brennan.

Post: Kampala.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, Giovanna Lucia Brennan, none.
3. Children and spouses, Sean Robert Brennan, none; Peter Francis Brennan, none.
4. Parents, Elsabet Sophia Brennan, none; Robert Martin Brennan (deceased); Carol Ida (Puccini) Brennan, none.
5. Grandparents, George Mansueto Puccini (deceased); Rose Puccini (deceased).
6. Brothers and spouses, David Donovon Brennan, none; Jody Brennan (spouse), none.
7. Sisters and spouses, Claire R. Brennan Cavero, none; Nevin Cavero (spouse), none; Moira C. Brennan (not married), none.

Tibor P. Nagy, Jr., of Texas, to be Ambassador to the Federal Democratic Republic of Ethiopia.

Nominee: Tibor Peter Nagy, Jr.

Post: Addis Ababa, Ethiopia.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, Peter, Stephen, Tisza, none.
4. Parents, Tibor Nagy, Sr., none; Zsuzsa Kovacs, none.
5. Grandparents, deceased.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

Barbro A. Owens-Kirkpatrick, of California, to be Ambassador to the Republic of Niger.

Nominee: Barbro A. Owens-Kirkpatrick.

Post: Republic of Niger.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, Alexander T. Kirkpatrick, none.
3. Children and spouses, Alexander J. and Maria Kirkpatrick, none.
4. Parents, Ayssa and Ole Appelqvist, none.
5. Grandparents, none living.
6. Brothers and spouses, Carl-Johan and Ellen Borg, none.
7. Sisters and spouses, Inger Appelqvist, Marianne Appelqvist and James Crossett, none; Anita and Isak Seligson, none; Ghia Borg and David Simmons, none.

## ORDERS FOR WEDNESDAY, SEPTEMBER 8, 1999

Mr. BROWNBACK. Mr. President, we have been through a lot. I now ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 12 noon on Wednesday, September 8. I further ask consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin 1 hour of morning business.

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

## PROGRAM

Mr. BROWNBACK. For the information of all Senators, the Senate will convene on Wednesday, September 8, at 12 noon, with morning business until 1 p.m. Following morning business, the Senate will resume consideration of the pending Interior bill. Any votes ordered on that bill will be stacked to occur at 5:30 p.m. on Wednesday, September 8. As a reminder, a cloture motion on the Transportation appropriations bill was filed today, and by previous order that vote will occur at 9:30 a.m. on Thursday, September 9.

Further, the Senate may also begin consideration of the bankruptcy bill following completion of the Interior appropriations bill.

## ADJOURNMENT UNTIL WEDNESDAY, SEPTEMBER 8, 1999

Mr. BROWNBACK. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the provisions of S. Con. Res. 51.

There being no objection, the Senate, at 8:52 p.m., adjourned until Wednesday, September 8, 1999, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate August 5, 1999:

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

CAROL J. PARRY, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS EXPIRING JANUARY 31, 2012, VICE SUSAN MEREDITH PHILLIPS, RESIGNED.

NATIONAL TRANSPORTATION SAFETY BOARD

JOHN GOGLIA, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2003. (REAPPOINTMENT)

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

PAUL L. HILL, JR., OF WEST VIRGINIA, TO BE CHAIRPERSON OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS. (REAPPOINTMENT)

PAUL L. HILL, JR., OF WEST VIRGINIA, TO BE MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS. (REAPPOINTMENT)

DEPARTMENT OF STATE

NORMAN A. WULF, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE A SPECIAL REPRESENTATIVE OF THE PRESIDENT, WITH THE RANK OF AMBASSADOR.

THE JUDICIARY

MARIANNE O. BATTANI, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN VICE ANNA DIGGS TAYLOR, RETIRED.

STEVEN D. BELL, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO, VICE GEORGE WASHINGTON WHITE, RETIRED.

RONALD A. GUZMAN, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE BRIAN B. DUFF, RETIRED.

DAVID M. LAWSON, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN VICE AVERN COHN, RETIRED.

ANN CLAIRE WILLIAMS, OF ILLINOIS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT, VICE WALTER J. CUMMINGS, JR., DECEASED.

JAMES A. WYNN, JR., OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE JAMES DICKSON PHILLIPS, JR., RETIRED.

DEPARTMENT OF JUSTICE

MELVIN W. KAHLE, OF WEST VIRGINIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR A TERM OF FOUR YEARS, VICE WILLIAM DAVID WILMOTH, RESIGNED.

TED L. MCBRIDE, OF SOUTH DAKOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF SOUTH DAKOTA FOR A TERM OF FOUR YEARS, VICE KAREN ELIZABETH SCHREIER, TERM EXPIRED.

ROBERT S. MUELLER, III, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS, VICE MICHAEL YAMAGUCHI, TERM EXPIRED.

JOHN W. MARSHALL, OF VIRGINIA, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE, VICE EDUARDO GONZALES, RESIGNED.

SURFACE TRANSPORTATION BOARD

LINDA JOAN MORGAN, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2003. (REAPPOINTMENT)

DEPARTMENT OF THE INTERIOR

SYLVIA V. BACA, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE ROBERT LANDIS ARMSTRONG, RESIGNED.

NUCLEAR REGULATORY COMMISSION

RICHARD A. MESERVE, OF VIRGINIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM OF FIVE YEARS EXPIRING JUNE 30, 2004, VICE SHIRLEY ANN JACKSON, TERM EXPIRED.

DEPARTMENT OF THE TREASURY

GEORGE L. FARR, OF CONNECTICUT, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM OF FOUR YEARS. (NEW POSITION)

THE JUDICIARY

GEORGE B. DANIELS, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE ROBERT P. PATTERSON, JR., RETIRED.

UNITED STATES SENTENCING COMMISSION

RUBEN CASTILLO, OF ILLINOIS, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A

TERM EXPIRING OCTOBER 31, 2003, VICE MICHAEL GELACAK, TERM EXPIRED.

STERLING R. JOHNSON, JR., OF NEW YORK, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2001, VICE JULIE E. CARNES, TERM EXPIRED.

DIANA E. MURPHY, OF MINNESOTA, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2005. (REAPPOINTMENT)

DIANA E. MURPHY, OF MINNESOTA, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION, VICE RICHARD P. CONABOY.

DIANA E. MURPHY, OF MINNESOTA, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 31, 1999, VICE RICHARD P. CONABOY, RESIGNED.

WILLIAM SESSIONS, III, OF VERMONT, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2003, VICE MICHAEL GOLDSMITH, TERM EXPIRED.

## CONFIRMATIONS

### Executive nominations confirmed by the Senate August 5, 1999:

#### DEPARTMENT OF STATE

RICHARD HOLBROOKE, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

RICHARD HOLBROOKE, OF NEW YORK, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

#### COMMODITY FUTURES TRADING COMMISSION

WILLIAM J. RAINER, OF NEW MEXICO, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION.

WILLIAM J. RAINER, OF NEW MEXICO, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 2004.

#### DEPARTMENT OF STATE

M. OSMAN SIDDIQUE, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FIJI, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAURU, AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF TONGA, AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TUVALU.

RICHARD MONROE MILES, OF SOUTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BULGARIA.

BARBARA J. GRIFFITHS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ICELAND.

SYLVIA GAYE STANFIELD, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

#### DEPARTMENT OF DEFENSE

CHARLES A. BLANCHARD, OF ARIZONA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY.

CAROL DIBATTISTE, OF FLORIDA, TO BE UNDER SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

#### DEPARTMENT OF STATE

MARTIN GEORGE BRENNAN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UGANDA.

BARBRO A. OWENS-KIRKPATRICK, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NIGER.

TIBOR P. NAGY, JR., OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA.

JEFFREY A. BADER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAMIBIA.

#### EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT Z. LAWRENCE, OF MASSACHUSETTS, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

MARTIN NEIL BAILY, OF MARYLAND, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

#### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. JOHN M. PICKLER, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. LARRY R. JORDAN, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JAMES T. HILL, 0000.

#### DEPARTMENT OF THE INTERIOR

EARL E. DEVANEY, OF MASSACHUSETTS, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE INTERIOR.

#### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. LARRY T. ELLIS, 0000.

#### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

DAVID M. CROCKER, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. MARK A. YOUNG, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF NAVAL PERSONNEL, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5141:

*To be vice admiral*

REAR ADM. NORBERT R. RYAN, JR., 0000.

#### DEPARTMENT OF JUSTICE

MERVYN M. MOSBACKER, JR., OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

#### FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING SUSAN GARRISON, AND ENDING RICHARD TSUTOMU YONEOKA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 1, 1999.