REVISED NOTICE

If the 106th Congress, 1st Session, adjourns sine die on or before November 17, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on December 2, 1999, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through December 1. The final issue will be dated December 2, 1999, and will be delivered on Friday, December 3, 1999.

If the 106th Congress does not adjourn until a later date in 1999, the final issue will be printed at a date to be announced.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

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By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, Chairman.

NOTICE

Effective January 1, 2000, the subscription price of the Congressional Record will be $357 per year, or $179 for 6 months. Individual issues may be purchased for $3.00 per copy. The cost for the microfiche edition will remain $141 per year; single copies will remain $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

MICHAEL F. DiMARIO, Public Printer.
MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2000

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

A joint resolution (H. J. Res. 78) making further continuing appropriations for the fiscal year 2000, and for other purposes.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized for 15 minutes.

Mr. EDWARDS. Mr. President, we are about to pass a resolution to keep the Government operating for approximately a week. The question I ask is, What are we doing for the victims of Hurricane Floyd? Keeping this Government open is not important unless it does the things it should and needs to do for its citizens.

We keep telling the people of this country that this is our Government, it belongs to every person. Every week they get their paycheck, and they have a huge deduction for Federal taxes. They wonder every time they get their paycheck and their paycheck stub where that money is going.

The truth is, now is the time, in the wake of the devastation of Hurricane Floyd, when they are entitled to expect their Government will respond and respond in a responsible way to what has been done to them.

The people of eastern North Carolina—I know because I have been there and over, including this past weekend—are wondering how they are going to make it through the winter. They are completely and totally innocent. These are people who had a hurricane drop inches and inches of water on them. It devastated their homes and, thereby, devastated their lives. In many cases, it devastated their workplaces.

What are they saying to us now is: What is my Government to which I have been paying taxes for all these years going to do? The reality is, if the Government does not respond to this disaster and this terrible situation, the Government serves no purpose.

We had 50 people die in North Carolina as a result of this hurricane and 5 people are still missing. We have 3,000 people who are still in temporary housing. More than 30,000 homes have been damaged or completely destroyed. The damage estimate for housing alone is approximately $400 million, and that number will grow. We have eight counties that still have damaged water systems where people are required to boil water to use it.

Over 2 months after this hurricane ravaged eastern North Carolina, our people are still struggling and suffering and will continue to struggle as we go forward.

I ask my colleagues these questions: No. 1, do they take for granted the roof over their heads?

No. 2, do they assume when they turn the tap on that they will be able to drink the water that comes out of that tap?

And No. 3, do they assume their children will be able to go to school?

Let me tell you and my colleagues in the Senate that there are tens of thousands of North Carolinians who no longer take those things for granted and no longer assume they are going to be able to do those things because they know they cannot.

The question they ask me and, more important, the question they ask us as their representatives in this Government is, What are we going to do to respond to what has happened to them?

We have kids in eastern North Carolina who are going to school in small trailers in a gravel parking lot of the National Guard grounds in Tarboro. In order to get to the restroom, they have to leave these small trailers and travel to the one small trailer that has a restroom. They are already going to school in little trailers on a gravel parking lot, and there is not even a restroom in the trailer they are using for a classroom. In order to use the restroom, they have to leave their trailer and go down the parking lot to another small trailer.

The water rose in this area, for example, 88 inches in an elementary school in Tarboro. The school was completely destroyed.

Transportation—we have more than 90 sections of State roads and 12 bridges still washed out.

Agriculture—our farmers are hurting as they have never hurt before. Before this hurricane went through eastern North Carolina, our farmers were teetering on the edge from low crop prices and many years of having a very difficult time financially.

What is the effect of a hurricane coming through? This is the time of year when farmers in eastern North Carolina would be doing the bulk of their work. They would be harvesting their crops. Not this year. Many of our farmers have lost all of their crops. The current crop loss estimate is $583 million—over $1 billion. The livestock loss is estimated at about $2 million. We have more than $200 million in damage to structures on farms, the structures that are necessary for these farmers to operate their farms. Many of these structures have been destroyed.

In addition, they have lost the machinery that is necessary to operate their farms on a daily basis. In almost all cases, the structures are not covered by insurance, and, in many cases, the machinery is not covered by insurance.

The bottom line is we have many farmers in eastern North Carolina who have lost their crops. They have lost their buildings, on which they operate, and they have lost the machinery they use to farm. They are out of business.

What they say to us in Washington is: What is my Government going to do to respond? I have paid my taxes. I have been a good, law-abiding citizen all these years, and I have always been told this is my Government. So my question to Washington now is, What is my Government going to do to respond?

The reality is, nobody in North Carolina is asking for a handout. Our people have responded heroically to this situation. Our businesses have been extraordinary.

They have made millions and millions of dollars worth of donations to help the people who have been devastated by Hurricane Floyd. Our individual citizens have made contributions. They have not only made contributions with funds to help the victims of Hurricane Floyd, they have taken time off from work, with their employers' permission; they are taking their weekends and their time off to go to eastern North Carolina to work to try to help the folks who have been devastated. They have done everything they can. Every person in North Carolina is doing what they can to help our people who have been damaged by this storm.

That is not enough. We need this Government to respond in a way that addresses the needs.

No. 1, we need housing relief. We have thousands of families who have lost their homes as a result of this storm. They have no way to rebuild their homes and rebuild their lives without our assistance. It is assistance to which they are entitled. They have paid their taxes all these years, never knowing this disaster, this devastation was coming. Now that it has hit them, it is time for this Government to respond and to get them back into houses.

They do not need help 6 months from now or a year from now; they need help right now. Right now is the time they are living in small trailers, on gravel parking lots. They want to get back into a home, a real home, the kind of home they had before Hurricane Floyd came.

We have a responsibility to do everything we can to put them in those homes.

Agriculture: We have over 25,000 farmers who desperately need help just to make it through the winter. I am talking about an intense and immediate financial crisis that our farmers are confronted with.

So we have two things we must do before we go home. We have to address the housing needs in North Carolina, people who are not going to be able to get through the winter unless we do something for them; and, secondly, we have to help our farmers who are already in trouble and have been completely devastated.

I want us to compare the needs and the devastation in North Carolina to some of the things on which we spend money. While I am strongly in support of spending funds for the defense of this country, we have spent
billion of dollars to projects the Pentagon did not even suggest they wanted. We have spent hundreds of millions of dollars on relocating bureaucrats and renovating or restoring Federal buildings, millions on debt forgiveness for farmers, thousands of millions on foreign cultural exchange programs, and on top of all that, a congressional pay raise.

Surely these folks in North Carolina, whose lives have been devastated—to totally innocent victims of Hurricane Floyd—are entitled to at least that level of priority. Those are things we have already done. And we ought to do things for these Third World countries. We ought to do things to help other countries that are in that plight. But the reality is, we have North Carolinians and Americans who are in desperate straits. They do not have anyplace to live. We have farmers who are literally out of business. Their families have, for generations, farmed the land of eastern North Carolina, and they are now out of business.

It is time for their Government to step to the plate and do the responsible thing. It is time for the people to have the help they need to put our folks in eastern North Carolina back into houses, to put our farmers back on their feet and back in business.

If we cannot do that, what function do we serve as a Government? For all those people who, for all these years, we have been saying, this is your Government; this is not some foreign thing up in Washington that has nothing to do with your lives, now they are asking us to help them. We have a responsibility, to make good on our responsibility to them for all their years—year in and year out—of doing the responsible thing: Paying their taxes and being good Americans.

So I close by saying, I understand that we are nearing the end of this session. I understand the needs and priorities on which we are all focused: Education, health care, responsible fixes for the bankruptcies and the hospitals and the health care providers around this country. We have many needs that need to be addressed.

But I want to make clear that when it comes to Hurricane Floyd and my people in North Carolina who do not have a place to live and are worried about getting through this winter, and our farmers who are literally out of business, that I intend to use absolutely everything at my disposal and to take whatever action is necessary to assure that our people in North Carolina are taken care of.

Thank you, Mr. President.

The PRESIDING OFFICER. Under the previous order, the clerk will read the joint resolution for the third time. The joint resolution was read the third time.

The PRESIDING OFFICER. Under the previous order, the joint resolution is passed, and the motion to reconsider is laid upon the table.

The joint resolution (H. J. Res. 78) was passed.

BANKRUPTCY REFORM ACT OF 1999—Continued

AMENDMENT NO. 2516, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the Kohl amendment No. 2516 is modified with the text of the amendment No. 2518.

The amendment, as modified, is as follows:

At the appropriate place in title I, insert the following:

SEC. 3. LIMITATION.

(a) Exemptions.—Section 522 of title 11, United States Code, as amended by sections 224 and 307 of this Act, is amended—

(1) in subsection (b)(3)(A), by inserting "subject to subsection (n)," before "any property"; and

(2) by adding at the end the following:

"(n) Except as provided in paragraph (2), as a result of electing under subsection (b)(3)(A) to extend, property, under State or local law, a debtor may not exempt any amount of interest that exceeds in the aggregate $100,000 in value in—

"(A) real property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor.

(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer."

AMENDMENT NO. 2778 TO AMENDMENT NO. 2516, AS MODIFIED

Purpose: To allow States to opt-out of any homestead exemption cap.)

Mrs. HUTCHISON. Mr. President, I offer a second-degree amendment to the pending amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. BROWNBACK, and Mr. GRAHAM, proposes an amendment numbered 2778 to amendment No. 2516, as modified.

(Amendment No. 2778 to Amendment No. 2516, as modified)

The PRESIDING OFFICER. The amendment, as modified, is as follows:

At the appropriate place in title I, insert the following:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. BROWNBACK, and Mr. GRAHAM, proposes an amendment numbered 2778 to amendment No. 2516, as modified.

(Purpose: To allow States to opt-out of any homestead exemption cap.)

Mrs. HUTCHISON. Mr. President, I offer a second-degree amendment to the pending amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. BROWNBACK, and Mr. GRAHAM, proposes an amendment numbered 2778 to amendment No. 2516, as modified.

Strike the period at the end and insert the following: ". The provisions of this section shall not apply to debtors if applicable State law provides by statute that such provisions shall not apply to debtors and shall not take effect in any State before the end of the first regular session of the State legislature following the date of enactment of this Act."

Mrs. HUTCHISON. Mr. President, if I could take a moment to explain the amendment. We have agreed to 30 minutes equally divided. I would then turn it over to Senator KOHL to explain the underlying law.

Basically, Senator KOHL and Senator SESSIONS are going to try to put a cap on the homestead exemption that would apply uniformly to every State.

I think that is a mistake because every State is different. The valuation of property is different in every State. This does not make any allowance for those variations in property.

The Kohl-Sessions amendment has a $100,000 cap in bankruptcy proceedings for the home. I believe that the median value of a home in California is over $215,000; in Oklahoma it is $92,500. So right there you can see there are differences in America.

Secondly, 11 homestead exemptions around the country would be immediately overturned under a Federal standard for a homestead exemption. The States of Florida, Iowa, Kansas, South Dakota, Texas, Minnesota, Nevada, Oklahoma, California, Massachusetts, and Rhode Island would all have their caps lifted in favor of a Federal rule that would attempt to be one size fits all.

In my home State of Texas, it is actually a constitutional provision; it is not a statute. It does not refer to money at all. It refers to acreage. There is the urban acreage and there is the rural acreage. So I think it is very important that we have the ability to address this by every individual State.

For 130 years in our country, the Federal Government has allowed the States the ability to set its own laws in this area. The homestead exemption does differ State to State. For 130 years, the Federal Government has said the States may do this.

The Kohl-Sessions amendment would overturn the 130 years of precedence and have a national standard, a one-size-fits-all approach. That reminds me of a lot of other Federal Government programs. I am sure it rings true with other Americans because that is the Federal approach: One size fits all. We do not need one size fits all. For 130 years, we have not had it.

In this country the States have done very well in setting their own homestead exemptions—what works for them, what works for the elderly in their States, what works for families in the State of Texas—and they do not want to throw homes away from the elderly who are most susceptible to having health crises. That would take away their savings. That might put them into financial difficulty. They do not want to throw people out of their homes, even if their homestead might be valued at over $100,000, the median value.

Secondly, what if it is a young family where the wage earner gets into financial difficulty? Do we want to put a family out on the streets? This has been sacrosanct in my State and in many other States; that whatever we were doing to try to make people pay their debts—and we do want people to pay their debts—we don't want to throw them out on the streets.

We do not want to give the elderly people the ability to continue to have a roof over their heads while they are working out of their financial difficulties.
I support the concept of this bill. I commend Senator GRASSLEY for working hard to improve the bankruptcy laws in our country. But the amendment that is before us today would take away 130 years of preemption by the States to create their own homestead exemptions, especially rural States where farms may have a bigger valuation. They don't want to make people who are in financial difficulty wards of the State.

Let me show two important letters from the State leaders of our country. The National Governors' Association, in a letter signed by Governor Jim Hodges and Governor John Rowland, wrote:

We also urge you to resist efforts to impose a uniform nationwide cap on homestead exemptions. The ability to determine their own homestead exemptions has been a longstanding authority of states. Furthermore, the median price of a single family home varies widely from state to state. A one-size-fits-all approach is simply not appropriate when the median home price may be more than two-and-a-half times as high in one state as it is in another.

The second letter is from the National Conference of State Legislatures. It says:

The National Conference of State Legislatures is concerned, however, that an amendment proposed during Senate consideration that would preempt state laws by setting a cap of $100,000 on homestead exemptions, thus forcing debtors with over $100,000 in homestead who are not owners of farms. Recent real estate trends have shown that in all but four states, the median price of a single family home is well over $100,000. While state legislators believe that the bankruptcy code should strongly encourage States to create their own homestead exemptions, especially rural states. Recent real estate trends have shown that in all but four states, the median price of a single family home is well over $100,000. While state legislators believe that the bankruptcy code should strongly encourage States to create their own homestead exemptions, especially rural states.

We have the National Conference of State Legislatures and the National Governors' Association speaking for the State leadership saying this is an area that should be left to the States. It has been left to the States for 130 years. We do not need to overturn 130 years of laws that are working in individual States.

I hope we can pass this bill. I certainly will support the Kohl amendment, if we have the State ability to opt out if they want to. I think if we can have that kind of accommodation, then it will be a good amendment. Let the States decide for themselves if $100,000 is right for them.

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

Mr. KOHL addressed the Chair. The PRESIDING OFFICER (Mr. CRAPO), The Senator from Wisconsin. 

Mr. KOHL. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on both the Hutchison amendment and the Kohl-Grassley-Sessions amendment.

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

Mrs. HUTCHISON. Mr. President, I was diverted. I didn't hear the unanimous consent request.

Mr. KOHL. I asked that it be in order for the yeas and nays on both the Hutchison amendment and the Kohl-Grassley amendment.

Mrs. HUTCHISON. I thank the Chair. The PRESIDING OFFICER. It is in order that the Senator now make that request.

Is there a sufficient second?

Mrs. HUTCHISON. There appears to be a sufficient second.

The yeas and nays were ordered. Mr. KOHL. Mr. President, I urge my colleagues to oppose the Hutchison/Brownback "opt-out" amendment, then vote for the Kohl/Sessions/Grassley $100,000 cap. Let me tell you why: an opt-out doesn't change a thing. A few states have already basically "opted out" of reasonable homestead exemptions and that's a problem. This amendment would let these states continue to go on like nothing happened. The Kohl-Sessions-Grassley amendment, on the other hand, will stop this abuse, pure and simple.

You can not support our cap and also support an opt-out by either one or the other, Mr. President. They say this is really just about states' rights. Nothing could be farther from the truth. Anyone who files for bankruptcy is choosing to invoke federal law, and not state law. It's a fresh start, which is a uniquely federal benefit. In these circumstances, it's only fair to impose federal limits.

And don't take my word for it: just listen to one of Texas' leading newspapers, the Austin American-Statesman. It recently editorialized that: "The U.S. Constitution gives the federal government supremacy over the states in bankruptcy matters, so arguments that the federal government should let states do as they please on this particular bankruptcy law make little sense." The editorial goes on to urge Congress to limit the homestead exemption.

Besides, we're only capping the homestead exemptions in states like Florida and Texas as they apply to bankruptcy and not for other purposes. That is, if you lose a multi million-dollar lawsuit in Texas and can't "pay up," you can still keep your expensive home if you don't file for bankruptcy. While that may not seem right, what state courts do is a matter of state law—and we do not touch it. On the other hand, anyone who wants to take advantage of the federal bankruptcy system should live with a federal $100,000 cap.

Now let's turn to why our proposal is so important to effective bankruptcy reform. Our proposal closes an inexcusable loophole that allows too many debtors to keep their luxury homes, while legitimate creditors—like children owed child support, ex-spouses owed alimony, state governments, small businesses and banks—get left out in the cold. Last year, the full Sen-
memorandum


From: Robin J. Eleuter, Legislative Attorney, American Law Division.

Subject: Effect of proposed amendments to S. 625 on selected state homestead exemptions.

This responds to your request for a legal opinion on the effect of the language of a proposed amendment to S. 625, 106th Cong., 1st Sess. 1999, the Bankruptcy Reform Act of 1999.

The proposed amendment would add a new subsection (n) to 11 U.S.C.S. § 522 governing bankruptcy exemptions to provide that the aggregate values of homestead exemptions in op-state may not exceed $100,000 in value.1

1 You have asked whether the provision, if enacted, would have on the homestead exemptions in Alabama, Colorado, Louisiana, Michigan, Mississippi, Nebraska, Oregon, and Rhode Island. For the reasons discussed below, we conclude that the proposed federal cap on state homestead exemptions would have no effect in these states.

Several of these states provide for the possible exemption of a substantial amount of real property, for example, up to 160 acres of land, which could theoretically exceed $100,000 in value. In each case, however, the scope of the exemption is limited by a monetary cap on its aggregate value:

Alabama Code §6-10-2 (1993): homestead "with the improvements and appurtenances, not exceeding in value $5,000 and in area 160 acres.

Colorado Rev. Stat. § 38-41-20 (1997): homestead shall be exempt "not exceeding in value the sum of thirty thousand dollars in actual cash value in excess of any liens or encumbrances."

Louisiana Rev. Stat. Ann., Title 20, §1 (West. 1999 supp.): homestead consists of "a tract of land or two or more tracts of land with a residence on one tract and a field, pasture, or garden on the other tract or tracts, not exceeding one hundred sixty acres. . . This exemption extends to fifteen thousand dollars in value."

Michigan Comp. Laws. Ann. §600.6023 (West 1999) exempted up to 60 acres of land and the dwelling house and appurtenances . . . not exceeding in value $3,500."

Mississippi Code Ann. §§5-3-21 (West 1999): "[A] householder shall be entitled to hold exempt . . . the land and buildings owned and occupied as a residence by him, or her, but the quantity of land shall not exceed one hundred sixty (160) acres, nor the value thereof, inclusive of improvements, save as hereinafter provided, the sum of Seventy-five Thousand Dollars ($75,000.00)."

Nebraska Rev. Stat. § 40-101 (1997 supp.): "A homestead not exceeding twelve thousand five hundred dollars in value shall consist of the dwelling house in which the claimant resides . . . not exceeding 160 acres of land."

Oregon Rev. Stat. Ann. (1998 supp., part 2) §§ 23.240, -.250: "The homestead mentioned in ORS 23.240 shall consist, when not located in any town or city laid off into blocks and lots, of any quantity of land not exceeding 160 acres, and when located in any such town or city, and not exceeding one block. However, a homestead under this section shall not exceed in value the sum of $25,000 or $33,000, whichever amount is applicable under another provision of law."

Rhode Island Gen. Laws §9-26-41 (1998 supp.): In addition to exempt property, "an estate of homestead to the extent of one hundred thousand dollars on the land and buildings may be acquired.

Although several of the state provisions cited above couch their exemptions in terms of a monetary cap, in some instances, an exemption of a substantial amount of land may theoretically exceed $100,000 in value. Hence, a federal cap on $100,000 on the value of a homestead exemption would not appear to have any effect on the state exemptions cited above.

Mr. KOHL. Mr. President, the facts speak for themselves. Simply put, the Hutchison-Brownback amendment is a bad idea, a backdoor way to allow rich deadbeats to continue to live as kings while their honest creditors go to the poor house. We urge our colleagues to oppose it and to support our bipartisan $100,000 cap instead.

The PRESIDING OFFICER. The Chair correct that the Senator is under time yielded by Senator KOHL?

Mr. SESSIONS. Mr. President, I am proud to join with Senator KOHL on this amendment. We have spent over 2 years now working to reform the abuses in bankruptcy law. Senator KOHL has served on the Judiciary Committee. As we have gone through it, we have tried to eliminate a lot of the abuses.

The PRESIDING OFFICER. Is the Chair correct that the Senator is under time yielded by Senator KOHL?

Mr. SESSIONS. That is correct.

Mr. President, we have been trying to eliminate abuses that are in the bankruptcy system. There are many of them. We have some things in this bill that are good and true and honest and fair. It says right now that a person making $70,000 a year who owes $100,000 under federal bankruptcy law, can go into chapter 7, wipe out all their debts, and still be living with a $100,000-a-year income and not have to pay the people from whom they receive benefits and to whom they owe money. We are saying you have a certain level of income, then you ought to pay a part of your debt, and you would be required by the judge to develop a re-payment plan for 30 percent. 50 percent, or 100 percent of the money, if you can pay it back. It is not just automatically wiping out all your debt.

Some have said this is abuse on the poor. But it would not affect anybody whose income did not fall below the median American income, which today for a family of four is $49,000. So this is for high-income people, and only if you make above that can you be required to pay back some of your debts. We think that is an abuse, and we think it ought to be ended.

Another abuse—one that may be the greatest abuse in the whole bankruptcy system—Elizabet Warren, a Harvard professor, is said is "the single biggest scandal in the consumer bankruptcy system." It is the unlimited homestead exemption. She said, "I think it is a scandal, and I agree. It is an absolute scandal."

First of all, bankruptcy law is handled in Federal court. It is all done in a Federal bankruptcy court. All the laws and all the rules are Federal laws. In one area, the Federal law says, for the purpose of bankruptcy homestead exemptions, that will be left to what the State law is. But that is a Federal law.

What we have found is that the Bankruptcy Commission, after 3 years of study, which included judges and other experts, recommended that we take this exemption to $100,000 and it be uniform across the country. There is no reason, or history, or logical justification for a State that has a limited bankruptcy exemption—a fact recognized, as the Senator said, by the Austin American Statesman newspaper, which said this is clearly a matter of Federal law. The scholars do not dispute that bankruptcy exemptions are determined by Federal law. I wanted to say that first.

Second, we are having serious problems and abuses—a Federal bankruptcy judge in Miami, FL, one of the States that has such an unlimited exemption, like Texas, has been very critical of this. The current system is "grossly unfair," said A Jay Cristol, the chief Federal bankruptcy judge in Miami. This law was written to give everyone a fresh start after bankruptcy, not to allow people to keep luxury homes.

How has this abuse been playing out? Here is an article in the New York Times listing some of the examples of what we are talking about:


This is in the New York Times of last year:

... its chief executive, Roy Talmo, filed for personal bankruptcy in 1993. Despite owing $6.8 million, Mr. Talmo was able to exempt a bounty of assets.

Exempt—that means those assets could not be used to pay people to whom he lawfully owed debts. It goes on:

During much of the bankruptcy proceeding, Mr. Talmo drove around Miami in a 1960 Rolls Royce and tended the grounds of his $800,000 tree farm. . . .

Never one to slum it, Mr. Talmo had a $800,000 tree farm. . . .

Mr. Talmo was able to exempt a bounty of assets. . . .

Exempt—that means those assets could not be used to pay people to whom he lawfully owed debts. It goes on:

During much of the bankruptcy proceeding, Mr. Talmo drove around Miami in a 1960 Rolls Royce and tended the grounds of his $800,000 tree farm. . . .

Never one to slum it, Mr. Talmo had a $800,000 tree farm. . . .

He owned property that the debtor or a dependent of the debtor uses as a residence:

(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

(B) a burial plot for the debtor or a dependent of the debtor;

(C) a burial plot for the debtor or a dependent of the debtor.
Another example: Talmadge Wayne Tinsley, a Dallas, TX, developer, filed for chapter 7 bankruptcy in 1996 after he incurred $50 million in debt, largely bank loans. Under Texas law, Mr. Tinsley could keep only one acre of his 3.1-acre estate.

Texas recently had laws up to change that 1-acre limitation if you live in a city to which you can exempt from 8 to 10 acres. At any rate, he wanted to exempt more than that. He wanted the whole 3.1-acre estate.

His $3.5 million, magnolia-lined estate included a five-bedroom, six-and-a-half-bath mansion with two studies, a pool and a guest house only onto one acre.

Yet, when the court asked Mr. Tinsley to mark off two acres to be sold to pay off his debts, his facetious offer was for the trustee to come by and peel off two feet around his entire property.

He signed off for that debt. At any rate, he was able to sell his house for $3.5 million, and he used the proceeds of this sale, after declaring bankruptcy, in Texas, with the IRS, whose debt still continues to be owed after bankruptcy, and another for $1.8 million to pay off his mortgage. That left him $700,000 after all his expenses, and he could spend that on whatever he wanted to, without paying legitimate people to whom he owed money. That is not a fair deal, I submit.

There are other examples of this. There is Dr. Carlos Garcia-Rivera, who filed for bankruptcy protection. He lives in Florida. The State law gives him an unlimited deduction, and he was able to keep a $500,000 residence, which is pictured in the newspaper article, free and clear.

The problem is this. A lot of people can see bankruptcy coming. They can see the problems coming down the road. They live in a State such as Alabama or New Jersey, where the laws don't give them these values. In fact, two-thirds of all the States limit your homestead to $40,000 in equity. So what do they do? They can see the bankruptcy coming. They can move to a State such as Texas or Florida, buy a beautiful home on the beach, take every asset they have, quit paying any of the people to whom they owe money, collect all their money, put it in that house, and then file bankruptcy and say: You can't take my home. It is my homestead, and I don't have to give you anything.

This is a problem. That is a national problem, and it is a growing problem. We have increased bankruptcies. Lawyers are more sophisticated. People are more willing to move today than they used to be. That is why Senator Kohl and I feel so strongly about this. I want to mention a couple more important things. The New York Times, in an editorial in August of 1999, argued against protecting rich bankrupts and criticized this very provision in law.

There were other complaints made in previous remarks suggesting this change would require States to change their constitution or their existing State law. That is not the case. The homestead exemption in Texas or Florida would be valid for every other State law purpose the State chose to apply it for. It simply would not be valid in the bankruptcy court if that law called for an exemption to exceed $100,000, the amount the Bankruptcy Commission, after 3 years' study, concluded was the appropriate amount. It certainly strikes me as a fair and legitimate amount.

This is by no means an attack on the equity in the house, but the equity in the house. If an individual owned a mansion with $500,000 of equity in that mansion, they would not be able to live in that mansion and stop paying their creditors, the people they duly and lawfully owed money to, but would be able to keep $100,000 of it. They could keep $100,000 in equity. They would end up better than a person who files bankruptcy in Alabama or most other States who have less than $100,000. We think that is fair, just, and appropriate and ought to be confronted. I know some believe it is somehow an advantage for a State to not have this cap, to have unlimited exemptions, but I argue it hurts local creditors in those States, too, because they are not being paid back their debts.

A man living in a mansion in downtown Dallas who is not paying his Dallas creditors and all the people he owes in Dallas, TX, gets to live in this mansion, is able to keep a reasonable home, pays all he can, liquidates all his assets, make sure a person who owes debts to make sure a person who owes debts, his facetious offer was for the trustee to come by and peel off two feet around his entire property.

I enjoyed working with Senator Kohl.

I yield the floor.

Mr. KOHL. I thank Senator Sessions.

I yield 2 minutes to Senator Grassley.

Mr. GRASSLEY. Mr. President, I thank the Senator for yielding. Second, I am grateful for his leadership in this area.

I ask unanimous consent to add Senator Grassley as a cosponsor to this amendment.

A recent General Accounting Office study on this subject confirms the homestead exemption is used by a select few to avoid paying their bills. Unlike other areas where Congress attempts to regulate with very little constitutional basis for doing so, the text of the Constitution in this instance gives Congress the authority to set uniform bankruptcy laws, one of the specific powers of Congress in article I. A homestead cap with a provision allowing some States to opt out and to have unlimited homestead will continue the unfairness of current law and will run counter to our constitutional mandate to have uniform bankruptcy laws.

I support a strong cap and oppose a State opt-out. I urge my colleagues to do the same.

Our colleagues should also be aware the underlying bill deals with very wealthy people in bankruptcy by pushing them in chapter 11 with special modifications designed to deal with individuals instead of corporations. Allowing the super rich to live high on the hog is a more widespread problem than homestead abuse.

I thank the Senator from Wisconsin for his leadership in this area.

Mr. KOHL. I thank Senator Grassley.

I ask unanimous consent to add Senator Harkin as a cosponsor to this amendment.

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

Mr. KOHL. I ask unanimous consent to reserve the remainder of our remaining time.

I yield the floor to Senator Brownback whose time is charged to the other side.

Mr. BROWNBACK. Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. BROWNBACK. I yield myself 10 minutes.
Mr. President, I think there are a number of things that need a response. Let me first set this in the context of being from Kansas. Kansas has in its constitution a provision allowing for the homestead to be protected. That homestead is defined in Kansas as a homestead that is the residence in that country on 160 acres. It is based on original Federal law. That Federal law was the Homestead Act that settled much of the Midwest. The Federal Government said the Federal Government owned this land, but if you could go out there and work those 160 acres and stay there for 5 years, the 160 acres was yours. That was the homestead.

There is a sanctity about the issue of the homestead. That is why it was built into our State Constitution. That is why it has been so protected in the past and why I rise in support of the Hutchinson-Brownback amendment and its amendment to what Senator Kohl would do. I will support the Kahl amendment but not the Hutchinson-Brownback amendment passes but not otherwise. This is an important part of our State.

What is being attempted by Senator Kohl and others—and I have great respect and feel they did have a point—are what they are referring to what they are putting forward—is to take a right away from States that they have for over 100 years. Bankruptcy law is in the Federal Constitution, but for over 100 years they have allowed a homestead provision and said they would allow the States to determine the homestead issue. Now we would be taking that right that the States have had for over 100 years and federalizing it. That is wrong. It is contrary to the devolution of States' rights. It is contrary to the Homestead Act that the Federal Government set, and it is harmful to farmers.

I used to practice agricultural law. I taught a law, I have written books on this subject. The homestead provision in my State and many others has helped save family farmers. These are not cases that make the newspaper or that are quoted here on the floor. Those, unfortunately, have happened as well. But listen to some of these cases that have occurred in Kansas.

A farm couple—the husband is age 52, and the wife is age 66—are cattle ranchers in Kansas. They have been farming the same ranch since 1965. In 1997, the husband was cleaning out a swine lagoon and received a staph infection in his eye. He lost nearly 80 percent of his vision and became legally blind. At this time, his wife was in her 60s. She had to stay in the hospital. This brought on numerous health care reasons. She had to stay in the hospital. Those, unfortunately, have happened as well. But listen to some of these cases that have occurred in Kansas.

This is a very practical thing that has happened throughout the history of Kansas that I can cite for you at various times. We have the prices of farm commodities dropping and dropping substantially, farmers are caught with too much credit and too low prices. They will get in the squeeze, and the only thing they can do is to sell the homestead. I have read abstracts of land titles across the State of Kansas, where this has been used time and time again, and none of those make the newspaper. Yet it is a part of their being able to build back. In this case, one example is the case of one family who had lost the homestead and was able to pay their creditors in the future. This isn't about them moving to Florida or to Texas to blink this law.

Here is another case. I will read to you about a farming couple from eastern Kansas. He is now 71. The wife is 55. They declared chapter 12 bankruptcy. They had trouble with their bank because of low commodity prices and many other typical struggles of a family farm. This is a typical case. The homestead-exempted property consists of 160 acres valued at approximately $800 an acre, including the house and buildings. With the exemption, they were able to retain all of their property for use as equity to start farming again.

Listen to what happened. The situation 3 years later is that this couple is about to pay off all of their creditors under the chapter 12 plan within the next few months and are now able to continue profitably with their farming operation. It is a happy ending that would have sadly ended without this sort of homestead provision.

There is a lot of talk about fraud that has taken place. I want to point out something in addressing this issue. Currently in bankruptcy law, if there is a fraudulent transaction of taking money that should go to a creditor and placing it in an exempt property, the court can come in and set that aside and get that money back. That is under current bankruptcy law.

Also, in the base bill there is a provision that if you purchase a home within 2 years of bankruptcy, that can be brought back into the creditor estate so that the creditors can get hold of that.

There is a lot already built into the bankruptcy law as it is currently practiced. That is why it has been interpreted by the courts. I have practiced in front of bankruptcy courts. There is also built into this change that within 2 years of purchasing a homestead, you can come back and get those assets. I have some of these high-profile cases. In many of those cases, I think you will find that the courts go after and later set aside the transaction as a fraudulent transaction. But let's look at the case of Burt Reynolds, who has become kind of a poster boy in this situation.

He has not filed under chapter 7 bankruptcy. He is not in chapter 7 where you have this homestead provision. He is in chapter 11, which is a reorganization in bankruptcy usually reserved for corporations. But there are also some higher income individuals who can qualify for chapter 11. An amendment on chapter 11 in the Judiciary Committee by Senator Grassley would close this chapter 11 loophole for wealthy individuals. Fortunately, that much needed amendment was passed during the markup despite some opposition from others.

Mr. President, my simple plea is on a couple of fronts.

No. 1, this is contrary to what this Congress has been committed to do, which is devolution of power and authority to States and local units of government. Here we have an area of law that has been devolved to the States for over 100 years, and we are going to grab it. And we are going to pull it up here back from the States that built it into their constitutions, such as Kansas and Texas. We are going to grab it. The Federal Government is going to say this is theirs. We are taking it away. That is completely contrary to devolution to States for over 100 years, and we are going to grab it. And we are going to pull it up here back from the States that built it into their constitutions, such as Kansas and Texas. We are going to grab it. The Federal Government is going to say this is ours. We are taking it away. That is completely contrary to devolution to States and local units of government.

No. 2, this is very harmful to family farmers, many of whom have used these homestead provisions during times of bad commodity prices—my State, and in others—to protect that 160-acre homestead, which is, as I mentioned at the outset, the sacrosanct unit—the family farm, to be able to protect it.

No. 3, it is already taken care of if there is any fraudulent transaction that is occurring, that can be set aside by the bankruptcy judge under current law. If they were planning to go into bankruptcy and move those assets, they can come within 2 years and still get that asset back. So this has taken care of that.

It is harmful to family farmers. It is against devolution. It is against States rights, and this is the wrong way for us to go. It is going to hurt a lot of family farmers who use this day in and day out, and as it has been interpreted by the courts, I don't mind the interpretation but are just simply trying to make a decent living and they get caught in a bad commodity cycle.

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During the 1980s, I worked with a lot of family farmers who got caught in a bad commodity cycle and used this homestead provision. They did not make the newspaper. But today, many of them are still farming simply because they have the ability of doing this, and they have protected their assets—putting their creditors even over and above what was required in bankruptcy law because they felt this was the honorable thing to do.

There are abuses under bankruptcy law. I would like to be able to support this bill at the end of the day. But this is not the right way to go for us. It is harmful for us to do this to family farmers and to States.

I support strongly the Hutchison-Brownback amendment and hope that it can be added to the Kohl amendment so that we can press forward with this bankruptcy reform. Otherwise, this Senator will certainly have to oppose the amendment.

Mr. President, I reserve the remainder of our time.

Mr. President, may I inquire as to how much time remains on our side?

The PRESIDING OFFICER. The Senator from Texas, and Senator Kolk has 7½ minutes.

The Senator from Wisconsin.

Mr. KOHL. Mr. President, I yield 4 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, one thing we have raised is the situation of the farm person.

First of all, Senator Grassley has been a champion of the new bankruptcy laws. And we have made those permanent in this bill to give added protections to farmers, unlike the kind of protections that are given a manager of a restaurant, a gas station, or a small activity that goes bankrupt. They have a number of good protections.

But what I want to say to you is that a person who owes a lot of debt, who has received legal benefits and owes money, and then goes into bankruptcy, will be able to keep up to $100,000 in equity. The house can be a $500,000 house. The farm can be $1 million farm—but the equity simply has to be shown that that is a good standard.

The Senator from Alabama, who is my friend, talks about a $50 million mansion. But what I want to say to you is that maybe 1 percent of the people that believe so strongly in the right of the homestead exemption be set State by State? This country was formed with a few laws are made at the Federal level. I think that is the right thing to do. But we do not have to preempt the States rights in this area. I think it will be a better bill if we do not.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields back?

The Senator from Kansas.

Mr. BROWNBACK. I inquire of the Senator from Texas if I could have just 2 minutes to explain an item that has been coming up in this debate.

Mrs. HUTCHISON. Mr. President, how many minutes remain on our side?

The PRESIDING OFFICER. The Senator has 6 and a half minutes.

Mrs. HUTCHISON. I yield 2 minutes.

Mr. BROWNBACK. Mr. President, I wanted to point out two things. No. 1, there is a recent study of U.S. bankruptcy filings by the Executive Office of the United States Trustees. The Trustees are the people who actually do the bankruptcies. They are the ones who handle the financial transactions. They concluded that the homestead abuse is—and this is their quote—"a rare phenomenon." That was a quote from the United States Trustees, Executive Office of the United States Trustees.

The second point I wanted to make is, my State of Kansas has a homestead provision under the State constitution that dates back to 1859. Kansans have
used this for a long time. However, in the U.S. bankruptcy code, many small family farmers would not qualify for what is defined as a family farmer because they or their spouse have earned off-farm income. Because of that, under this peculiar provision, in farming States such as mine with similar homestead provisions, they would be impacted because they would not be able to qualify there. I want to make the point, that adds doubly to the difficulty they have.

I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Mr. President, let me inquire of the Senator from Wisconsin if he is ready to finish. I will go ahead and close out the debate if we are ready to close earlier. What was his intention?

Mr. KOHL. I say to the Senator from Texas, we have, I think, 5 minutes. I will not use all of it. If the Senator wants to conclude, I will speak for a couple of minutes, Senator Sessions for 1 minute, and then we are finished. If they do not, I will have to go first.

Mrs. HUTCHISON. Would it be possible for the Senator to let me have 2 minutes, perhaps, toward the end, in case Senator GRAHAM of Florida and Senator GRAM from Minnesota, who have both requested time, arrive? We are getting down to the end, so I do not want to foreclose them if they do show. If they do not, I think we should go forward.

Mr. KOHL. I will be happy to wait.

The PRESIDING OFFICER. Is the Senator requesting an additional 2 minutes at the end reserved from her time?

Mrs. HUTCHISON. No, I am only saying I will stop 2 minutes ahead in order to reserve that time for the Senator from Florida or the Senator from Minnesota. If they are not able to come, then I think we should close the debate because the time is running out.

The PRESIDING OFFICER. The Chair will notify the Senator when 2 minutes remain.

Mrs. HUTCHISON. Mr. President, let me say, the Governors of our country have written a very powerful letter saying: Do not do this. Do not set a Federal standard for homestead exemptions. The Governors wrote very clearly:

We urge you to resist efforts to impose a uniform nationwide cap on homestead exemptions. The ability to determine their homestead exemptions has been a longstanding authority of States. Furthermore, the median price of a single family home varies from State to State.

This is not something that should be a Federal approach. It has not been a Federal approach. Every Governor in our State is saying: Let us handle it.

If the people of Wisconsin do not like the way they handle it in Texas, that does not hurt the people of Wisconsin. That should be a decision made at the local level based on local value, local traditions, and local law.

Secondly, the National Conference of State Legislatures has written a letter along the same lines saying they are concerned that setting a law which would preempt State laws on homestead exemptions would not be in the best interest of the American people.

I hope our Members will not break 130 years of precedent in this country to set yet another one-size-fits-all Federal solution. This is something very important to States, so important that some States have put it in their constitutions, and today voting against the Hutchison amendment for the Kohl-Sessions amendment, which most certainly damage our ability to let the States make these determinations.

Senator BROWNBACK, Senator GRAHAM of Florida, and Senator Rod GRAM from Minnesota are co-sponsors of this amendment. Many people are very concerned about this 130 years of precedent being overturned.

I yield 2 minutes to Senator GRAM.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. GRAM. Mr. President, I thank the Senator from Texas and also the Senator from Kansas for their work on this issue.

Mr. President, I rise today to speak in opposition to the bankruptcy homestead cap proposed as an amendment to the bankruptcy bill. I appreciate the fact that the sponsors of this amendment are attempting to curb abuse of the system, but I believe that these difficulties for family farmers and homeowners the homestead amendment could disproportionately impact struggling producers.

I will remind my colleagues that the Senate recently unanimously approved extension of chapter 12 of the bankruptcy code, which in part allows farmers to stay on their land if they are able to make rental payments to creditors. Just as farmers have needed extension of chapter 12 to weather the current economic downturn, they also need an adequate bankruptcy homestead exemption that will protect their homes and livelihoods from foreclosure as well.

I am aware that the Sessions/Kohl amendment exempts “family farmers” from the homestead provision, but many farmers will not qualify because of off-farm income earned by the family. This off-farm income has become necessary for survival for many farm families and as long as such families are not eligible for the exclusion, I must oppose the amendment.

As the Senator from Texas mentioned, in Minnesota, the current homestead exemption is $200,000 property value and 160 acres. This is a reasonable, time-tested level of protection. We must remember that this property is not merely where the farmers make their home, but also where they earn their living. Congress recently passed $67 billion for emergency farmers and ranchers, and as long as such family farmers continue the tradition of producing America’s most basic needs, and we should not simultaneously undermine the position of these same farm families by denying them important bankruptcy protections.

Again, I know that the amendment sponsors are trying to stop abuse of the system by those who have irresponsibly accumulated debt. I am afraid many hard working Minnesota farmer who are barely covering their families necessities may be adversely impacted.

I urge my colleagues to support the Hutchison-Brownback amendment allowing States to affirmatively opt out of the cap on the homestead exemption.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I do not think we should be misled by the Hutchison-Brownback amendment that it will save the family farm. No one has done more for family farmers, as we all know, than Senator Knowles, Senator HARKIN, and they are supportive and co-sponsors of our amendment.

Our amendment does have a specific exemption for farmers in each State so that the family farmer, whether they come from Texas, Wisconsin, or I can be specifically dealt with in that State in the event of a bankruptcy.

If we are serious about reform, now is the time to stop the most egregious abuse of our bankruptcy laws—by capping the homestead exemption and supporting the Kohl-Sessions-Grassley amendment. But don’t take my word for it. Listen to voices from across the country.

For example, the New York Times recently editorialized that: “Like a bill that passed the House, [the Senate bill] would do nothing to limit the ways that the formerly wealthy have of stifling creditors, of which the unlimited homestead exemption is only the best known. . . . [If the bill] is to be passed, it should at least be amended to keep Texas and Florida from providing such blatant protection to once-wealthy deadbeats.”

Of course, the New York Times may not be the most unbiased source. So I took a look at my home state newspaper, the Wisconsin State Journal. That newspaper says the same thing. According to its recent editorial, the House and Senate bankruptcy bills: “deserve criticism for what they fail to include. . . . Furthermore, the bill does not close enough loopholes that allow bankrupt wealthy to shelter assets in an expensive home. Irresponsible but shrewd debtors sneak assets through bankruptcy via a provision permitting them to take advantage of state homestead exemptions.” It adds that our $100,000 cap is a “sound” measure.

Finally, even leading papers from Texas and Florida—the two States most invested in this issue—find the case for reigning in unlimited homestead exemption compelling. In an editorial earlier this year, the Austin American-Statesman praised the recent GAO report for pointing out
that the unlimited homestead exemption: ‘‘[p]rimarily...is the refuge of a few high-living debtors, not the school-teachers and small farmers it was intended to protect.’’

The Austin newspaper went on to dismiss appeals to states’ rights as a false defense for the unlimited exemption, explaining that: ‘‘The U.S. Constitution gives the federal government supremacy over the states in bankruptcy matters, so arguments that the federal government should let states do as they wish on this particular facet of bankruptcy law makes little sense.’’

Indeed, even this Texas opinion-maker finally supported a homestead exemption that protect the wealthiest from having their debt.”

Everyone recognizes that this abuse must be stopped, including leading papers from the two states that traditionally have stood by the unlimited exemption. Indeed, a study just released and that these editorials be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1.)

Mr. KOHL. Mr. President, indeed, even Senator GRASSLEY and Senator HARKIN, who have no longer part of our $100,000 cap, also recognize that we are in the right, even though their home state of Iowa is one of the few states with an unlimited exemption.

Let me make one final point: some opt-out supporters, especially those from Texas, cite history as a justification for their position. But just because something has historical “significance” doesn’t mean it’s right. For example, we don’t have debtors’ prison anymore. We don’t have sweatshops for children anymore. And Texas, as a matter of fact, is no longer part of our Mexico. All of these changes altered something of “historical significance,” all were for the better. And getting rid of the unlimited homestead exemption in bankruptcy would be also a change—a dramatic change—for the better.

Mr. President, you can’t support our cap and also support an opt-out: It’s one or the other. I urge my colleagues to oppose the Hutchison/ Brownback amendment and to support our bipartisan $100,000 cap instead.

I yield the floor.
CONGRESSIONAL RECORD — SENATE

November 10, 1999

S14489

But a recent federal study by the federal General Accounting Office indicates that the exemption is more popular than populist. Primarily it is the refuge of a few high-living debtors, the schoolteachers and small farmers it was intended to protect.

Texas political leaders need to heed the report and consider some limits.

Last year, the Task Force congressional delegation helped defeat a $100,000 limit on the home equity (market value minus mortgage debt) that could be sheltered during bankruptcy filings. Of 14,000 Texas Chapter 7 bankruptcy cases closed in the Northern District of Texas in 1998, about half involved a homestead exemption claim, GAO found. But only 83 of those claims, or just over 1 percent, involved more than $100,000 in home equity.

Texas' unlimited protection is subject to abuses, such as the case of a bankruptcy attorney who protected $386,000 in homestead assets while seeking to escape $1.5 million in debts. The debtor had planned to file for bankruptcy preemptively shield assets from seizure by investing in an expensive home.

While even the bankrupt need and deserve a roof, a house, a mortgage, a bankruptcy system shouldn't be tolerated. Besides the unfairness, overly generous state laws threaten lenders, who then raise lending rates for other borrowers.

The U.S. Constitution gives the federal government supremacy over the state in bankruptcy matters, so arguments that the federal government should let states do as they wish on this particular facet of bankruptcy law make little sense.

Congress has long declared reform of federal bankruptcy laws, which debt-happy consumers have been using in large numbers. American consumer debt totals more than $1 trillion, according to the Federal Reserve. And uncollected debt is rising.

Consumer advocates have criticized bankruptcy reform legislation for being skewed in favor of creditors and high-rolling debtors.

Though he supports the state exemption for homesteads, Sen. Phil Gramm, R-Texas, says it should be modernized to prevent abuses. "I do not support allowing people who go by the book of the law and obey the law to lose a $1 million house before they go by the law office to declare bankruptcy," he said in an interview with The Washington Post.

Gramm says one solution would be to allow the exemption only if the home purchase preceded the bankruptcy filing by a certain length of time.


State officials in Austin and Washington should at least be willing to discuss limiting homestead protection. A few well-heeled and clever, which debt-happy consumers have been using over a state law designed to protect average Texans.

That mocks the state's much celebrated populist image.

From the Tampa Tribune, July 6, 1999

CONGRESS IS ON THE RIGHT TRACK IN ACTING TO REFORM BANKRUPTCY LAW

Even during the unprecedented economic good times of the past year, some 1.39 million consumers in 14,000 businesses have sought protection from creditors in federal bankruptcy courts—more than ever before. The majority of these debtors, faced with medical bills or other crises, fell into one category or another. Others, however, used the system to escape debts they knowingly built up, costing the average family $500 a year and American companies billions.

That's why it is time to reform the nation's bankruptcy laws and return the control of the courts back to the federal system. Last year, with elections looming, Congress failed to reach an agreement. This year, however, it looks like Congress will finally act on a bill that the president will sign.

The House passed its version of reform in May, and the Senate is scheduled to take up its bill this month. There is bipartisan agreement in the upper chamber for reform, and the senators for reform, and the compromise with the House is likely to result in new law. That is good news for all of us.

Those supporting reform include retailers, banks and other lenders, as well as many responsible consumers sick of having to pick up the tab for those who default on their debts. Those opposed include some in the bankruptcy bar, who contend the legislation favors big business at the expense of consumers who truly need help, and consumer groups, which blame the ease with which consumers receive credit for increased bankruptcy filings.

The Senate's version requires only a showing of "special circumstances," such as a decline in income or unexpected medical expenses, before making the decision to shield a debtor into Chapter 13. Nevertheless, opponents say the provision is unlikely to filter into the bankruptcy system. Last year's Senate bill would have made it impossible for states to let a bankrupt person keep more than $100,000 equity in a home, which would certainly hurt a lot of debtors who headed to Florida to live in their multimillion-dollar mansions.

But the conference committees throw out the provision and instead require that states could let a bankrupt person retain any house owned for at least two years before filing, no matter what its value. Both 1999 versions retain this language. We would prefer Congress cap the amount of equity a debtor can retain in a home.

In a consumer-friendly mode, House lawmakers adopted an amendment requiring credit-card companies to clearly disclose their fees for late payments and how long it would take customers to pay off balances when they make only minimum monthly payments. The House would also require companies to clearly reveal the expiration dates of introductory "teaser rates" and the higher interest rates replacing them.

Although we have only mentioned some of the proposed changes, the basic thrust of the legislation in both the House and Senate is to match bankruptcy relief to debtor need. Chapter 13 repayment plans accomplish this objective and restore personal responsibility to the system.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL. I yield 1 minute to Sen. SESSIONS.

Mr. SESSIONS. The PRESIDING OFFICER. One minute remains.

Mr. SESSIONS. Mr. President, Senator KOHL and I asked earlier this year for a GAO report on these cases, According to the Washington Post, "Homestead exemptions aid well-off feud":

Findings suggest the unlimited homestead exemption is not the popular shield it has often been cracked up to be but a convenient protection for a few affluent and powerful debtors.

Judge Edith Jones on the Fifth Circuit Court of Appeals from Texas said recently as a member of the Bankruptcy Commission:
I agree with cap supporters that debtors have used liberal homestead laws, like that of my home State Texas, to shelter large amounts of wealth from their creditors.

She went on to add:

In principle, I do not oppose a $100,000 cap on homestead exemptions, particularly if it were indexed to account for inflation.

This will be indexed, and I think Judge Jones is correct.

In my State, it has been set in a constitutional amendment which required a vote of a majority of the citizens of Florida. I believe that is where the decision should continue to rest.

The amendment that is being offered by the Senator from Texas, and her supporters, would provide for the States to continue to exercise that authority, by making an affirmative election to opt out of the arbitrary $100,000 limit which is being proposed by the advocates of the underlying amendment.

I urge adoption of the second-degree amendment.

The PRESIDING OFFICER. All time has expired.

VOTE ON AMENDMENT NO. 2778

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to the Hutchinson second-degree amendment No. 2778. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 29, nays 69, as follows:

[Rollcall Vote No. 363 Leg.]

YEA'S—29

Allard
Bennett
Brownback
Bunning
Burns
Campbell
Domenici
Graham

NAYS—69

Abraham
Akaka
Ashcroft
Baucus
Bayh
Bingaman
Bond
Breaux
Byrd
Chafee, L.
Cleland
Coats
Collins
Conrad
Cooper
Daschle
DeWine
Dorgan
Durbin

ANSWERED "PRESENT"—1
Fitzgerald

NOT VOTING—1
McCain

The amendment (No. 3514) was agreed to.

Mr. LOTT. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table the motion was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota, Mr. WELLSTONE, is recognized to offer an amendment relative to agriculture, and there are 4 hours of debate provided.

Mr. WELLSTONE. Mr. President, my understanding is—let me see if I get this right—that we are in the process of trying to work out some kind of arrangement which may work better for colleagues in terms of their schedules, in which case soon we would start on this debate. We might very well finish up when we come back with a final vote.

If that is the case, I would agree to Senator ASHCROFT speaking now for 7 minutes while we are working out this agreement; with the understanding that after Senator ASHCROFT speaks for 7 minutes, then the pending business would be this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object, and when people understand what we are up to, there will not be any objection. We have a unanimous consent request on the managers' amendment that will take 30 seconds. I would like to get that out of the way. Mr. REID. Mr. President, I ask unanimous consent that the Wellstone amendment be set aside for purposes of this managers' amendment.

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

The Senator from Iowa is recognized to offer his amendment.

AMENDMENT NO. 2515, AS MODIFIED

(Purpose: To make technical and conforming amendments, and for other purposes)

Mr. GRASSLEY. Mr. President, I will be somewhat repetitious of what Senator REID has said, but I ask unanimous consent that the pending amendment be laid aside, and that the Senate now proceed to amendment No. 2515, and following the reporting by the clerk, the amendment be modified with the text now send to the desk, and that the amendment be agreed to, and the motion to reconsider be laid upon the table.
SEC. 103. FINDINGS AND STUDY.

(a) FINDINGS. Ð Congress finds that the Secretary of the Treasury has the inherent authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate the inherent need of those standards.

(b) STUDY. Ð The President shall submit, at the end of each fiscal year, a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Secretary concerning the utilization of Internal Revenue Service standards for determining whether a household of 4 individuals, plus $583 for each member of equal size.

(a) FINDINGS. Ð Congress finds that the median monthly income calculated subject to clause (ii) on a semiannual basis of a household of 4 individuals, plus $583 for each additional member of that household.

(b) STUDY. Ð The Secretary of the Treasury, in consultation with the Executive Office of United States Trustees, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Secretary concerning the utilization of Internal Revenue Service standards for determining the median monthly income calculated subject to clause (ii) on a semiannual basis of the median monthly income of a household of 4 individuals, plus $583 for each additional member of that household.

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(3) in section 1222(a)—
   (A) in paragraph (2), by striking “and” at the end;
   (B) in paragraph (3), by striking the period at the end and inserting “; and”; and
   (C) by adding at the end the following:
   “(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor’s projected disposable income available to pay such interest after making provision for full payment of all allowed claims; and
   (10) in section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting “; and” for a domestic support obligation that first becomes payable after the date on which the petition is filed” after “dependent of the debtor”.

On page 43, strike lines 16 through 20 and insert the following: Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting “; and” for a domestic support obligation that first becomes payable after the date on which the petition is filed” after “dependent of the debtor”.

On page 43, strike line 22 through page 44, line 2, and insert the following:

Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting “; and” for a domestic support obligation that first becomes payable after the date on which the petition is filed” after “dependent of the debtor”.

On page 44, line 14, strike “for support” through line 16, and insert “for a domestic support obligation”; and

On page 45, between lines 23 and 24, insert the following:

“(III) the last recent known name and address of the debtor’s employer; and

On page 45, line 24, strike “(III)” and insert “(IV)”.

On page 46, strike lines 6 through 11, and insert the following:

“(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (3), or (14) the last recent known name and address of the debtor.”

On page 47, line 8, strike “(b)(7)” and insert “(a)(7)”.

On page 48, line 7, strike “and”.

On page 48, insert between lines 7 and 8 the following:

“(V) concerning child custody or visitation;”

On page 48, line 11, strike “(4), or (14)” and insert “(3), or (14)”.

On page 48, strike lines 15 through 20 and insert the following:

“A holder of a claim or a State child support agency may request from a creditor described in paragraph (3), or (14A) the last recent known name and address of the debtor’s employer; and

On page 49, strike lines 9 through 14 and insert the following:

“(II) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).”; and

On page 47, line 8, strike “(b)(7)” and insert “(a)(7)”.

On page 48, line 7, strike “and”.

On page 49, insert between lines 7 and 8 the following:

“(II) the last recent known name and address of the debtor’s employer; and

On page 49, line 8, strike “(III)” and insert “(IV)”.

On page 48, line 11, strike “(4), or (14)” and insert “(3), or (14)”.

On page 48, strike lines 15 through 20 and insert the following:

“A holder of a claim or a State child support agency may request from a creditor described in paragraph (3), or (14A) the last recent known name and address of the debtor.”

On page 49, strike lines 9 through 14 and insert the following:

“(II) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).”; and

On page 50, line 16, strike “(III)” and insert “(IV)”.

On page 50, insert between lines 16 and 17 the following:

“(III) the last recent known name and address of the debtor’s employer; and

On page 50, line 17, strike “(III)” and insert “(IV)”.

On page 50, line 20, strike “(4), or (14)” and insert “(3), or (14)”.

On page 50, line 24 and all that follows through page 51, line 4 and insert the following:

“(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (3), or (14A) the last recent known name and address of the debtor.”
On page 51, strike lines 19 through 24 and insert the following:

"(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation apportioned by the applicable notification specified in subsection (d); and

On page 52, line 24, strike "and".

On page 52, after line 24, add the following:

"(ii) the name of the address of the debtor’s employer; and",

On page 53, line 1, strike "(III)" and insert "(I)"

On page 53, line 4, strike ",(4), or (14)\)" and insert "(3), or (14)\)"

On page 53, strike lines 8 through 12 and insert the following:

"(2) whenever the holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

On page 76, line 15, strike ",523(a)(9)\)" and insert ",523(a)(8)\)

On page 82, strike lines 4 through 9 and insert ",title 11, United States Code, is amend-\)ed by adding at the end the following:

"(1) between lines 8 and 9, insert ",(19)\) and insert ",(18)\)

On page 83, between lines 4 and 5, insert the following:

"SEC. 225. PROTECTION OF EDUCATION SAVINGS. (a) EXCLUSIONS. Section 541 of title 11, United States Code, as amended by section 903, is amended—(1) in subsection (b)—

(A) by redesignating paragraph (6) as paragraph (8); and

(B) by inserting after paragraph (5) the following:

"(6) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts, the aggregate amount paid or contributed to such tuition support program by or on behalf of the debtor for the taxable year for which funds were paid or contributed;"

On page 91, between lines 18 and 19, insert the following:

"(c) MODIFICATION OF A RESTRICTION RELATING TO WAIVERS. Section 522(e) of title 11, United States Code, is amended—(1) in the first sentence, by striking "subsection (b) of this section" and inserting "subsection (b), other than under paragraph (3)(C) of this subsection"; and

(2) in the second sentence, by inserting "(other than property described in subsection (b)(3)(C))\)" after "property" each place it appears; and

(b) DEBTOR’S DUTIES. Section 521 of title 11, United States Code, as amended by sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

"(k) In addition to meeting the require-\)ments under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code)."

On page 92, line 23, strike "105(d)\) and insert "106(d)\)

On page 92, line 17, strike ",105(d)\) and insert ",106(d)\)

On page 92, line 18, strike "(b)\) and insert "(c)\)

On page 94, line 25, strike "105(d)\) and insert "106(d)\)

On page 95, line 16, strike "(c)\) and insert "(d)\)

On page 109, line 13, strike "by adding at the end" and insert "by inserting after subsection (e)\)

On page 111, line 18, insert "(a) in GENERAL.\)—before "Section."

On page 112, line 14, insert a dash after the period.

On page 112, lines 19, strike "(4)\) and insert "(3)\)

On page 112, line 20, strike ",38, (5), (9), or (9) of section 529\)\) and insert "(4), (7), or (8) of section 529\)\)"

On page 116, line 16, strike "(d)(1)\) and insert "(e)(1)\)

On page 117, line 5, strike ",(e)\) and insert ",(f)\)

On page 118, line 1, strike "(A) beginning" and insert the following:

"(A) beginning".

On page 118, line 5, strike "(B) thereafter," and insert the following:

"(B) thereafter,"

On page 118, line 6, strike "(f)\) and insert "(g)\)

On page 119, line 24, strike "section 225 of this chapter does not discharge a debt-

or's projected disposable income (as that term is defined in section 1325(b)(2) to be received during the 3-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer)."

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY. Section 122(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the follow-\)ing: except that in a case concerning an individual, the debtor may retain property included in the estate under section 1105, subject to the requirements of sub-\)section (a)(16).

(d) EFFECT OF CONFIRMATION—Title 11, United States Code, is amended—(1) in paragraph (2), by striking "The confirma-\)tion of a plan does not discharge an indi-\)vidual debtor" and inserting "A discharge under this chapter does not discharge a debtor-

or's projected disposable income (as that term is defined in section 1325(b)(2) to be received during the 3-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer)."
“(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payments under the plan; and

“(B) at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

“(i) for each allowed unsecured claim, the value as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

“(ii) modification of the plan under 1127 of this title is not practicable.”

(e) APPOINTMENT OF COMMITTEE.—Section 1102(a)(2) of title 11, United States Code, is amended by adding at the end the following:

“(e) in a case concerning an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, if the court determines that the creditor holds, the United States trustee, or the holder of an allowed unsecured claim, to—

“(1) increase or reduce the amount of payments to a particular class provided for by the plan;

“(2) extend or reduce the time period for such payments; or

“(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

“(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

“(2) The plan, as modified, shall become effective, to the extent not inconsistent with the order modifying the plan, as of the date when the order modifying the plan becomes effective.

“(g) A PPLICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by inserting after the first sentence the following:

“(h) the court determines that the creditor holds a claim that is a small business concern, the United States trustee, or the holder of an allowed unsecured claim, to—

“(1) increase or reduce the amount of payments to a particular class provided for by the plan;

“(2) extend or reduce the time period for such payments; or

“(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

“(i) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).
"(A) ‘family fisherman’ means—

"(1) a family fisherman with regular annual income;’;

"(2) a family fisherman with regular annual income;’;

"(3) a family fisherman with regular annual income;’;

"(4) a family fisherman with regular annual income;’;

"(5) by adding at the end the following:

"§1232. Additional provisions relating to family fishermen

"(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to a commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).

"(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be secured to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

"(B) Subparagraph (A) applies to a claim for a lien resulting from the default of a family fisherman incurred on or after the date of enactment of this chapter.

"(C) A lien described in this subsection is—

"(i) a maritime lien under section 3133 of title 46, United States Code, without regard to whether that lien is recorded under section 3134 of title 46, United States Code.

"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation.

"(II) 1 family and the relatives of the members of such family (including a commercial fishing vessel owned or operated by such family or such individual’s and spouse’s gross income for the taxable year preceding the taxable year in which the case is filed, arise out of a commercial fishing operation; or

"(iii)(I) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of its commercial fishing operation;

"(II) a corporation or partnership—

"(i) that conducts the commercial fishing operation;

"(ii) and the relatives conduct the commercial fishing operation; or

"(iii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

"(ii) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate debts are owed to creditors that are owed because of a commercial fishing operation; and

"(iii) if such corporation issues stock, such stock is not publicly traded;’;

"(4) by inserting after paragraph (19A) the following:

"(19B) ‘family fisherman with regular annual income’ means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12, without defaulting thereunder.

(b) WHO MAY BE A DEBTOR.—Section 109(f)(f) of title 11, United States Code, is amended by inserting ‘‘OR FISHERMAN’’ after ‘‘FARMER’’.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

"(1) in the chapter heading, by inserting ‘‘OR FISHERMAN’’ after ‘‘FAMILY FARMER’’;

"(2) in section 1201, by adding at the end the following:

"(e)(1) Notwithstanding any other provision of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section shall be liable in the same manner and to the same extent as a creditor with respect to the operation of a stay under this section.

"(2) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be liable in the same manner and to the same extent as a creditor with respect to the operation of a stay under this section.'';
reaffirmation agreement must fill this form out. Based on the information provided on the form, certain situations will then obligate the court to review such agreements in order to determine if the reaffirmation agreement is truly within the debtor’s best interests.

In constructing this compromise amendment, I think we have achieved some very important goals. First and foremost, we want everyone to recognize that a reaffirmation agreement is a very weighty decision, and that the individual needs to understand—whether they are represented by counsel or not—all the ramifications of the agreement into which he or she is entering. In fact, the individual needs to understand that they in no way need to file a reaffirmation agreement.

Another vital issue is to have the court review such cases in which the debtor wants to reaffirm his or her debt, but in calculating the difference between the person’s income and all their monthly expenses, it remains impossible for the debtor to do so. In other words, there exists a presumption of undue hardship upon the person. It is at that point that we want the court to have the ability to step in and say to this person, that either they have the ability to repay some of this debt because of other sources of funds—such as a gift from the family—or that they do not, and therefore the reaffirmation cannot be approved by the court.

Without this amendment, we are concerned that the abuses in the reaffirmation system that we have seen will continue to occur, and the courts may continue to be left in the dark with respect to the existence of these agreements, let alone have the option to review them. This amendment is not perfect, and if given the choice, I probably would have preferred to go even further than we have in our language. With that said, it is still important to note that with this amendment, we have given our courts and consumers the appropriate tools that will provide them with the necessary information to make decisions that are in the individual’s best interests, not the creditor’s. That is a crucial point that I wanted to emphasize.

I appreciate all the efforts of those involved in the process that went into constructing this compromise amendment, and I am confident that it strengthens the hands of our courts, and more importantly, the minds of our consumers as they make decisions that will weigh upon them for the rest of their lives.

Mr. WELLSTONE. Mr. President, I am going to have to object. I am willing to let some people speak, but I have been waiting for 3 days to get this amendment, and to get this debated.

Mr. REID. Mr. President, if I could direct an inquiry, through the Chair, to the manager of the bill, it is my understanding that the majority leader has asked me to ask the Senator from Minnesota—that his amendment be set aside for purposes of the senior Senator from Connecticut to offer an amendment. The debate time on that would be—

Mr. GRASSLEY. Five minutes on our side and 5 minutes on the other side.

Mr. REID. Following the disposition and a vote on the Dodd amendment, Senator WELLSSTONE, who has been waiting all week to offer his amendment, would get the floor to which he is now entitled.

Mr. REID. OK, the Senator from Missouri.

Following that, is Senator Dodd going to be recognized? Has the unanimous consent request been accepted?

Mr. REID. OK. The Senator from Minnesota.

Mr. ASHCROFT. I thank the Chair. And I thank my colleagues for allowing me this time.

DAKOTA WATER RESOURCES ACT

Mr. ASHCROFT. Mr. President, I am here on the floor today to talk about one of Missouri’s most important natural resources, and that is the Missouri River.

There is a bill that another Member is trying to pass by unanimous consent that would threaten the Missouri River. I am making it clear that I have an objection to this bill, and I am firm on this issue.

On Friday around 4 p.m., 52 bills were hot-lined to be passed by unanimous consent in the Senate. Most of these bills were, in my opinion, passed by unanimous consent, that I believe are controversial.

However, buried in this list of 52 bills was one that I am opposed to, S. 623, the Dakota Water Resources Act. I am opposed to it because it would divert a substantial amount of water out of the Missouri River. The bill that I am objecting to authorizes $200 million to divert additional water from the Missouri River system to the Cheyenne River in the Dakota States. This is an inter-basin transfer of water which could have substantial impacts all along the Missouri River basin. I do not blame the North Dakota Senators for fighting for this, but it hurts my state and the Upper States, and I cannot consent to its approval by unanimous consent. Apparently, this bill has broad opposition by many different parties along the Missouri River. It is a very controversial provision and should not be passed in the dead of night on a consent calendar with a lot of noncontroversial bills.

This is opposed strongly by the Governor and the Department of Natural Resources in Missouri. It is opposed by Taxpayers for Common Sense. It is opposed by a host of environmental groups—Including the National Wildlife Federation, the National Audubon Society, Friends of the Earth, and American Rivers. The Canadian Government opposes this bill and has opposed the program it authorizes for decades, claiming that it violates a 1909 United States-Canada Boundary Waters Treaty. The Governor of Minnesota opposes this measure. The Minnesota State Department of Natural Resources opposes it, and the list goes on.

It is too early in the process for me to clearly understand this bill. There are too many questions that remain to be answered. There are too many related issues that the States are negotiating at this time. We are awaiting the recommendations of the Corps of Engineers on how much additional water they intend to reserve for Dakota purposes. The senior Senator from Missouri and I will continue to fight. As a result of our objections, the sponsor of the bill is摒Tel5 up 51 other noncontroversial bills.

Let me be clear. These 51 holds are not related to the longstanding dispute between North Dakota and Missouri and many other parties over the water allocation in the Missouri River. Therefore, Senator Bond and I will not be pressured into lifting our hold on a bill that will harm the livelihood of the people of Missouri. These types of interstate river disputes that have been going on for years simply should not be resolved without all interested parties involved and without adequate consideration given to the ecological and commercial effects.

From the farm to the factory, the Missouri River creates jobs in the Midwest. The Missouri River is a stable water supply and a source of hydro power for major cities. We must be very cautious about changing water supplies in the Missouri River in order to maintain the recreational opportunities for local communities, as well as hatcheries for fish and flyways for migratory birds.
November 10, 1999

CONGRESSIONAL RECORD—SENATE

S14497

I regret that important unrelated and noncontroversial measures are being held up by the sponsors of S. 623, but I cannot consent to passage of this bill at this time. The water flow of the Missouri River is too important to the livelihood of the numerous metropolitan areas and small cities, and transportation and industry not only in Missouri but all along the waterway. We must deal with this measure reasonably and in the context of real negotiations, not as a matter of consent to be underwritten without full discussion by the parties.

I thank the Senate for my opportunity to reference my position on this issue. I yield the remainder of the time.

BANKRUPTCY REFORM ACT OF 1999—Continued

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized to introduce an amendment.

AMENDMENT NO. 2752

(Purpose: To impose a moratorium on large agribusiness mergers and to establish a commission to review large agriculture mergers, concentration, and market power)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. DASCHLE, Mr. DORGAN, and Mr. HARKIN, proposes an amendment numbered 2752.

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

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

The text of the amendment is printed in the Record of Friday, November 5, 1999, under “Amendments Submitted.”

Mr. WELLSTONE. Mr. President, I say to colleagues that I will start out—though my guess is that very soon we will probably have an agreement that will enable us to go to an amendment that will be 10 minutes altogether and then a vote for those who need to leave town. I will start out. I want to say to colleagues, this isn’t going to be a long debate, and we’ll go back to it on Wednesday. Several colleagues have questions and I will start out that way.

Mr. DORGAN. Will the Senator from Minnesota yield for a question?

Mr. WELLSTONE. Yes.

Mr. DORGAN. Mr. President, I must respond to the comments made by our distinguished colleague from Missouri and comments made by his colleague from Missouri yesterday, as well, with respect to the Dakota Water Resources project in North Dakota. The legislation that was being referenced is profoundly misunderstood. In fact, the Dakota Water Resources Act (S. 629) reduces the authorization of the water project. It doesn’t expand it; it dramatically reduces it—cutting authorized irrigation from 130,000 to 70,000 acres and deauthorizing several project features.

It also fully protects the interests of the State of Missouri. Nevertheless, in the State of Missouri, written today and delivered to us, complains about the Dakota Water Resources project. In so doing, the letter describes a completely separate and unrelated project (the Devils Lake outlet), which has nothing to do with this at all. So there is a profound misunderstanding here about the facts and circumstances affecting two distinct projects.

I might say, additionally, that the Dakota Water Resources Project is not some dream somebody just had in the last day or two. My State has a Rhode Island-sized flood that has visited us permanently, forever. The Federal Government said, if you will keep a flood barrier up, we will remove the water behind the dam around North Dakota for your beneficial purposes. Why did the Government want the permanent flood in North Dakota? The reason was the Missouri River, flooding at St. Louis and dozens of other downstream communities.

North Dakota said, fine. The downstream states have flood protection and a lot of the benefits. We agree with that. We support that.

But we have not gotten the benefits, after these many decades, that we were promised, in turn, from a multi-purpose water project. It has been pared back and back, and the legislation just discussed on the floor by my colleague from Missouri shrinks it even further. In fact, we have proposed further protection for Missouri, because one of the objections by the Senator from Missouri was that this project would use water from the Missouri River and Missouri really wants that water. He doesn’t feel that the equivalent of one-tenth of a foot off the Missouri River at St. Louis should be used in North Dakota. So we have proposed there be no reduction in water going through St. Louis. We would manage the water imposed by the Garrison Dam in a way that guarantees there would be no reduction in the Missouri River water for St. Louis.

I make the point that the comments made by the Senator from Missouri and his colleague from the same State, in my judgment, and with great respect, profoundly misstate what we are doing. This bill shrinks the authorized project dramatically and would not produce anything like the kind of results that have been alleged. In fact, we believe this project is good for Missouri and all of the States in the Missouri Basin and in the region.

Several Senators addressed the Chair.

Mr. WELLSTONE. Mr. President, I have the floor. The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. WELLSTONE. I would be pleased to yield for a question.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. WELLSTONE. I am pleased to yield for a unanimous consent request. I ask unanimous consent that I regain the floor following the agreement.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the pending consent regarding the Wellstone amendment be temporarily suspended and the Senate now resume the Dodd amendment No. 2532, and there be 10 minutes remaining and a vote occur on or in relation to the amendment at the end of that time. I further ask consent that the Senate then turn to the Wellstone amendment and that all debate but 1 hour equally divided be used during the session of the Senate today. I also ask that 1 hour of debate occur on Wednesday, November 17, and a vote occur on or in relation to the amendment, including back of time, provided that a vote in relation to the Wellstone amendment occur prior to a cloture vote, if cloture is filed on the bill.

Mr. REID. Reserving the right to object. Mr. President, it is my understanding there would be a vote on the Dodd amendment this evening, is that correct?

Mr. GRASSLEY. Yes.

Mr. CONRAD. Reserving the right to object. Mr. President, I would like 5 minutes before we go to the vote to have a chance to also respond to statements made by the Senators from Missouri the last couple days with respect to the water project in North Dakota. If I could get that consent, I certainly would not object.

Mr. REID. Mr. President, reserving the right to object, if I could say to the proponents of the unanimous consent request, it has been brought to my attention that instead of 10 minutes, we will need 15 minutes equally divided. I am sure he would have no objection to that. We have no objection, I say to the Senator from North Dakota, anybody else need to respond to that?

Mr. ASHCROFT. I have no objection to the statements of the Senators from North Dakota. I made my position clear. This issue has been well known for a couple of decades now.

Mrs. FEINSTEIN. Mr. President, reserving the right to object, I have two amendments that have been moved and laid aside. I would like to have a time where we might take those amendments off the desk and have a brief period of debate and a vote.

Mr. REID. Mr. President, if I may respond, I say to my friend from California that we are now using the good work of the Senator from Minnesota to get this agreement. One reason the two leaders want us to come back for a vote in 15 or 20 minutes is so they can advise the Senate as to what is going to happen in the next few days. I don’t know, under the present framework, how—this may be the last vote. I would assume this would be the last vote tonight.
Mrs. FEINSTEIN. What I am concerned about is, I have made this known for a number of days now. I have been patient and I have tried to get in the queue. I have waited. I have no objection if this is Wednesday or Wednesday afternoon, but I would appreciate having time. I am prepared to object if I can't get that time.

Mr. REID. I say to my friend, objecting doesn't help her cause. It just prevents us from having everybody gathered to know what is going to happen. Otherwise there will be no vote and Senator WELSTONE will argue his amendment, and we will be out of here anyway. On the Democratic side, we probably have 8 or 9 Senators on the same position that the Senator from California is in. They have offered amendments, and they are waiting to have a vote on those amendments. I have worked with—

Mrs. FEINSTEIN. But my experience is that if they come to the floor, they are often accommodated. I don't see why that same accommodation should not be made for me, most respectfully.

Mr. REID. The Senator certainly is a great advocate. We would like to concede that she has the right above everybody else to a vote, but right now we don't have the parliamentary ability to do that.

I say to my friend that I think Senators FEINGOLD, DURBIN, JOHNSON—I can go through the whole list—have also been making the same requests the Senator from California has and we haven't been able to get the votes up because of the nongermane amendments being debated on minimum wage and everything. It isn't as if the Senator from Iowa hasn't wanted votes. We haven't been able to get them.

Mrs. FEINSTEIN. My amendment is germane.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota has the floor.

Mr. WELSTONE. Mr. President, I want to point out that if there is an objection, people can't leave. I am trying to accommodate people's schedules. I think it would be unfortunate if because of an objection Senators who want to stay back for Veterans Day are not able to leave tonight. I was trying to accommodate.

I hope the Senator from California will reconsider. Basically, the implication is that many people have many other amendments. This happens to be one of the three amendments that was part of the original agreement about how we would proceed. That is the only difference. Many of us have other amendments.

If the Senator wants to object, go ahead.

Mrs. FEINSTEIN. I have no objection to proceeding with the amendment. What I suspect is going to happen come Wednesday is it will be closed down, and we will not have an opportunity to offer an amendment. One of these amendments I have made to the bankruptcy bill. The Senator from Iowa knows I have been a supporter of this bill. He is supportive of this amendment. I am sure that after this agreement is reached, he will vote for it. There are co-sponsors of the amendment. I, again, would like an opportunity to present the amendment. I would like an opportunity to have the Senator from California that none of us here have power to do anything about it. The Senator from Iowa and I will be happy to put the Senator from California in line to vote tonight. But there may not be any more votes tonight and we may have votes next Wednesday. There may be only one vote on the WELSTONE amendment. We don't know. There is no problem having the amendment. The only concern that one or two come up when ever that will be, this year or next year—on this bill.

Mr. GRASSLEY. Mr. President, if the amendment is accepted, the Senator from California will be able to vote on his amendment. We would like to complete this bill. No. 2, we are trying to get to the banking amendments. We would like to complete this bill, and we will be out of here Wednesday is it will be closed down, and we will not have an opportunity to offer an amendment. One of these amendments I have made to the bankruptcy bill. The Senator from Iowa knows I have been a supporter of this bill. He is supportive of this amendment. I am sure that after this agreement is reached, he will vote for it. There are co-sponsors of the amendment. I, again, would like an opportunity to present the amendment. I would like an opportunity to have the Senator from California that none of us here have power to do anything about it. The Senator from Iowa and I will be happy to put the Senator from California in line to vote tonight. But there may not be any more votes tonight and we may have votes next Wednesday. There may be only one vote on the WELSTONE amendment. We don't know. There is no problem having the amendment. The only concern that one or two come up when ever that will be, this year or next year—on this bill.

Mr. WYDEN. Will the Senator from Minnesota yield?

Mr. WELSTONE. First, I say to the Senator from Iowa, I hope we can work this out so Senator FEINSTEIN can leave.

Mr. GRASSLEY. I am trying to satisfy the Senator from California, although I don't think I can do any better than the Senator from Nevada has just done. But I pled for two reasons. No. 1, I still hope to work with the Senator from Texas, the chairman of the Banking Committee, to see what we can do to facilitate the amendment, whether it is now or a week from now or next year, if we aren't finished with the bankruptcy bill, we are trying to get to a situation where we can get to a vote, which is something we promised a Member who has been waiting for a long, long time. We still have the third situation where Senator REID and I are going to sit down with our staffs to see what we can do with all of the amendments so we know where we are and have a complete picture. That is why I would plead with her to let the unanimous consent be dispensed with.

Mrs. FEINSTEIN. My understanding is that at some point I will have an opportunity to offer this amendment, whether that is on Wednesday, another day, or next year. Is that the correct understanding?

Mr. GRASSLEY. As far as I am concerned, the answer is yes. But let me say it is my understanding under the agreement we have now that there can be an objection to the Senator offering her amendment if, for instance, somebody on the Banking Committee is going to Mr. REID. She already offered it.

Mr. GRASSLEY. Then the answer is yes.

Mrs. FEINSTEIN. I understand that. I will not object.

Mr. WELSTONE. Can we get the agreement?

Mr. GRASSLEY. Can we move forward with the agreement?

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object, I repeat my request to have 5 minutes.

The PRESIDING OFFICER. That is part of the agreement.

Mr. CONRAD. Then I certainly do not object.

Mr. REID. In fairness to the Senator from California, I don't know what is going to happen. I am not in a position to do anything about it. But it is possible there could be some procedural thing that will stop a lot of votes from going forward. The Senator from Iowa says, all things equal, the Senator's amendment will go forward. I can't stand here and guarantee it will happen. Procedurally, a lot of amendments may not go forward.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WELSTONE. Mr. President, I have the floor. I know we want to move forward. I am trying to move forward. I would like to yield 3 minutes to the Senator from Oregon. He has been waiting since February 25, Senator LOTT and Senator DASCHLE wrote all Senators:
All Members wishing to place a hold on any legislation or executive calendar business shall notify the sponsor of the legislation and the committee of jurisdiction of their intention to hold. A written notification should be provided to respective leaders stating their intentions regarding their bill or nomination. A written notification from any member of a personal or committee staff will not be honored unless accompanied by a written notification from the objecting Senator by the end of the following business day.

Suffice it to say, colleagues, I suspect there are a few sponsors of legislation here in the Senate who have not been notified that there is a hold on their legislation.

I hope as we move towards the last hours of this session all Senators, Democrats and Republicans, will honor the policy set out by Senators LOTT and DASCHLE. The secret holds are a breach of all that the Senate is supposed to stand for in terms of openness and public accountability.

I hope Senators will comply with that new policy set out by Senators LOTT and DASCHLE. I yield the floor.

Dakota Water Resources ACT

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I would like the opportunity to respond to statements that have been made about the Dakota Water Resources Act over the last several days by the Senator from Missouri. Yesterday we were told that North Dakota is seeking somehow to steal water from our neighbors to the south. That is factually incorrect.

North Dakota was made a promise by allowing you to improve the water supply for your citizens. That is what this bill is about. It is not designed in any way to hurt the State of Missouri. We are prepared to make changes in the legislation to make that clear.

Let me conclude by saying we received a letter today that totally confuse this project with the Devil's Lake outlet which is required to solve another problem in another part of the State. These two projects are not the same. We hope officials in Missouri will get it straightened out in their own minds that these are two totally distinct projects. An outlet from Devil's Lake has nothing whatever to do with the Dakota Water Resources Act.

I thank my colleagues for their patience, and I yield the floor.

Bankruptcy Reform Act of 1999—Continued

AMENDMENT NO. 250, AS MODIFIED

The PRESIDING OFFICER. There are 15 minutes equally divided on the Dodd amendment.

Mr. DODD. I yield myself 4 minutes under the agreement.

This chart explains the amendment I am offering. First, some of my colleagues are aware, there is $43 billion in uncollected child support in this country. If we could collect a fraction of the child support that is outstanding, we could make a huge difference in the lives of children and families all across this country.

Despite the good efforts of those who have authored this bill on bankruptcy, there is a major gap in this bill. The major gap affects the very people this number reflects for child support recipients. This bill places at a significant disadvantage women and children who may get caught up in the turmoil of a bankruptcy proceeding and leaves them with insufficient resources with respect to meeting the basic necessities in their lives.

THE NEW LEGISLATION BEFORE US IS DESIGNED TO SUBSTANTIALLY ALTER WHAT IS CURRENTLY AUTHORIZED IN THE LAW TO REDUCE ITS COSTS BY $1 BILLION TO REDUCE DRAMATICALLY THE NUMBER OF IRRIGATED ACRES, AND INSTEAD TO HAVE WATER SUPPLY PROJECTS FOR CITIES, COUNCILS, COUNCILS, AND TOGETHERING, HAVING BEEN INUNDATED TO PROVIDE FLOOD PROTECTION FOR DOWNSTREAM STATES, INCLUDING MISSOURI. WE HAVE SAVED BILLIONS OF DOLLARS OF FLOOD DAMAGE IN THOSE STATES BECAUSE NORTH DAKOTA HAS ACCEPTED THIS PERMANENT FLOOD OF OVER HALF A MILLION ACRES. THAT IS THE FACT.

The new legislation before us is designed to substantially alter what is currently authorized in the law to reduce its costs by $1 billion to reduce dramatically the number of irrigated acres, and instead to have water supply projects for cities, towns, and togetherness.

The fact is, the flow of the Missouri River in Missouri is 50,000 CFS. We are talking about 100 CFS to meet the legitimate water needs of the State of North Dakota, water needs that are already in the law.

Today, in order to respond to the legitimate concerns of the Senators from Missouri, we offered to go even further and to put into law an assurance that they would not lose water at their key navigation time, during this key period when they are concerned with losing even half an inch. That is what this amendment does.

Yesterday we were told that North Dakota was made a promise by allowing you to improve the water supply for your citizens. That is what this bill is about. It is not designed in any way to hurt the State of Missouri. We are prepared to make changes in the legislation to make that clear.

Let me conclude by saying we received a letter today that totally confuses this project with the Devil's Lake outlet which is required to solve another problem in another part of the State. These two projects are not the same. We hope officials in Missouri will get it straightened out in their own minds that these are two totally distinct projects. An outlet from Devil's Lake has nothing whatever to do with the Dakota Water Resources Act.

I thank my colleagues for their patience, and I yield the floor.

Congressional Record — Senate

November 10, 1999

S14499

Mr. GRASSLEY. Mr. President, this bill, the original bill, contains many
provisions to help collect past due child support. This is not just the authors saying this. These provisions are endorsed by the prosecutors who actually enforce child support laws.

On another point, in response to what the Senator from Connecticut has said, if one is under the median income, the means test doesn’t even apply to that person. The person Senator Dodd is worried about won’t be affected.

In a more broad sense, this amendment should be defeated. First, the means test we now have in the bill is very flexible. The charge has been that we are not flexible enough. I will point out that flexibility. If a bankrupt is in a unique or special situation, our bill, the means test, allows that person to explain his or her situation to the judge or to the trustee and thus get out of paying these debts if there are special expenses. If these special expenses are both reasonable and necessary and this reduces repayment ability, the debtor doesn’t have to repay his or her debts.

The way we determine living expenses in this bill is to use a template established by the Internal Revenue Service for repayment plans involving back taxes.

I have a chart and a study of the bill which was done by the General Accounting Office. The General Accounting Office noted in its June 1999 report, which was to Congress, and a report about bankruptcy reform, that this template includes a provision allowing a debtor to claim child care expenses, dependent care expenses, health care expenses, or other expenses which are necessary living expenses. Tell me, with all these things included, and with the General Accounting Office backing up the intent of our legislation, that this bill is not flexible, that this bill does not take into consideration the living expenses and needs of the potential person in bankruptcy.

This, I am afraid, is not as flexible as you can get. According to the General Accounting Office and the Internal Revenue Service, living standards in the bill now provide that any necessary expense can be taken into account. The only living expenses not allowed under this bill are unnecessary and unreasonable expenses. What is wrong with not allowing unreasonable and unnecessary expenses? The only people who oppose the means test as currently written are people who want deadbeats looking to stiff their creditors to dine on fancy meals and to live in extravagant homes and to take posh vacations.

On the issue of household goods, this might by a surprise to the Senator from Connecticut, but I tend to agree with some of what he said now and last night. If Senator Dodd were to modify his amendment, just to deal with household goods, I will be pleased to work with him on that to get the clarification accepted. This amendment does more than just deal with the household goods issues. I simply cannot accept these other changes.

Finally, this amendment by the Senator from Connecticut makes fraud much easier because the problem we must address in doing bankruptcy reform is that some people load up on debts on the eve of bankruptcy and then try to wipe out those debts, wipe them all away, by getting a discharge. Obviously, this is a type of fraud which Congress needs to protect against. The bill now says that debts for luxury items purchased within 90 days of bankruptcy in excess of $250, and cash advances on credit cards made within 70 days in excess of $750, are presumed to be nondischargable. This is pretty flexible on its face. Under the bill now, you can buy $249 worth of luxury items such as caviar the day before you declare bankruptcy and still walk away scot-free. Under the bill, you can get $749 worth of cash advances minutes before you declare bankruptcy and still walk away scot-free.

But this is not enough for the people proposing this amendment. So the question we have to answer is how much fraud do we want to tolerate? This amendment is way off base. If you want to crack down on out-and-out fraud, and that is what we are talking about, you should support the bill and you should be against this amendment because by supporting the amendment, you make it easier for crooks to game the bankruptcy system and get a free ride at everyone else’s expense. Consequently, if you do not want to do that, you will not support the Dodd amendment. I oppose the amendment and I ask my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, crooks and scam artists there may be, but in our appetite, to go after the scam artist, we should not make women and children pay the price. To suggest somehow that someone is scamming the system because they buy $251 worth of goods and services they may need for their children, that they are somehow ripping off the system, is to approach being ludicrous when it comes to this.

I have great respect for prosecutors, and the General Accounting Office. But when 180 organizations representing every family group in this country from the right to the left, if you will, strongly support this amendment because it tries to do something to protect these families, then we have achieved a new low when it comes to speaking about families and children with one voice and then turning around and doing violence to them.

The IRS schedule is not terribly flexible. I ask unanimous consent it be printed in the Record.

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

### COLLECTION FINANCIAL STANDARDS—ALLOWABLE LIVING EXPENSES FOR FOOD, CLOTHING AND OTHER ITEMS; TOTAL MONTHLY NATIONAL STANDARDS (EXCEPT ALASKA AND HAWAII)

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<th>Total Gross Monthly Income</th>
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<td>Less than $830</td>
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<tr>
<td>$831 to $1,249</td>
<td>391</td>
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<tr>
<td>$1,250 to $1,669</td>
<td>433</td>
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<tr>
<td>$1,670 to $2,099</td>
<td>527</td>
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<tr>
<td>$2,500 to $3,329</td>
<td>554</td>
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<tr>
<td>$3,330 to $4,169</td>
<td>620</td>
</tr>
<tr>
<td>$4,170 to $5,829</td>
<td>773</td>
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<tr>
<td>$5,830 and over</td>
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### MONTHLY NATIONAL STANDARDS

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<tr>
<th>Item</th>
<th>Less than $830</th>
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Mr. DODD. Find for me the word "children" anywhere in this schedule. It does not show up, not once. There is no flexibility at all. It is very rigid in terms of how it applies. There is no consideration for the regions of the country where people live, whether you live in New York City or Iowa or Connecticut or the State of Ohio. It is a one-fix system, across the board.

I appreciate the Chairman and others who have tried to do something on the means test. I am not sure if you think it is so flexible, then merely adopt this amendment. What you have also left out, of course, is that you still allow for funds that a parent receives to the benefit of children to be dissipated. Things like child support payments and earned-income tax credits, which you do get if you are making $17,000 a year, should not be divided up among creditors.

As the bill presently reads, that can happen. That is why 180 organizations are vehemently opposed to the present language of this bill.

Let me go on. With regard to the seizing of household goods, again there is nothing in this bill, nor the managers’ amendment that prohibits these repossession operations from coming in and taking toys and books and VCRs that may be necessary for the education of children.

Lastly, the bill says if a consumer buys food, clothing, medicine, and similar items on credit within 90 days of a bankruptcy filing, and if the value of those items exceeds $250, then they are presumed to be luxuries and the person filing the bankruptcy has to hire a lawyer to defend such purchases, make the case they were not luxury items. That is what the bill says. That goes far beyond anything we have ever done in 100 years in bankruptcy law, to turn around and say the present law says $1,075 over 60 days. Our amendment says $400 per item or service in 60 days. The bill provides for a total of $250 in 90 days, while mine provides a more rational and reasonable itemized sum—per item or service—in 60 days. The managers’ amendment does not say anything about that at all.

This amendment is an absolute travesty to say we are going to make families go into court and prove, when they went to Kmart and bought $251 worth of goods in the last 60 days, that they are not scam artists. Maybe there are some out there, but let’s not let the millions of people who get caught in a bankruptcy proceeding because someone is sick and they lose a job, that somehow they are going to have to hire a lawyer and defend themselves for $250. This amendment is critical.

Mr. President, I ask unanimous consent for 1 additional minute?

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

Mr. DODD. This amendment is as critical as it gets to this bill. We are doing a lot to help the credit card companies. This is going to reduce the number of bankruptcies. But in our zeal to do that, we do not allow this to happen. This would really be a major setback. Since 1993, we have put children and families in the exalted position of not allowing them to be brought in and damaged in bankruptcy proceedings.

They are not going to get off scot-free. They have obligations to pay. But to say, somehow, we are putting families first because we have a flexible means test, disregarding all the other things that are in this bill, would be a major setback of significant proportions.

The Washington Post editorial this morning is right on point. This is the amendment they were talking about. We urge our colleagues to support it. Mr. BIDEN addressed the Chair.

Mr. GRASSLEY. I yield the Senator from Delaware 1 minute.

Mr. BIDEN. Mr. President, under the present law there are nondischargeable items with cash advances. It is a little over $1,000. This goes down to $750. There is a difference, but it is not what the Senate from Connecticut makes it out to be.

No. 2, in the means test in terms of “other necessary expenses,” it includes such expenses as charitable contributions, child care, dependent care, health care, payroll deductions—that is taxes, union dues, and life insurance. It is not true they are not able to be viewed as “other expenses” to be considered within bankruptcy.

I understand the Senator’s point. I think he doth protest too loudly. It is not $1,000, it is $750. That is true. It is a $250 difference. That is what we are arguing about.

I have no more time, so I yield the floor.

Mr. HATCH. Mr. President, I rise in opposition to the amendment offered by Mr. Dodd and others, which has many components that undermine the kind of bankruptcy reform we are seeking to accomplish in this bill. The amendment creates new windfalls for debtors in bankruptcy. It imposes an artificial definition of gross income which excludes major sources of income. This would undermine both the means test and the obligation that debtors pay all their disposable income to creditors in chapter 13 plans. Furthermore, the amendment undercuts the bill’s definition of household goods, allowing virtually any frivolous item a debtor owns to qualify as a “household good.” The amendment claims to be “pro-family”, but it takes a tremendous step backward with respect to families—particularly those who work hard to pay their bills every month. I have worked very hard, along with Senator TORRICELLI, provision by provision, to ensure that this bill is an important improvement for families over current bankruptcy law. I described in considerable detail last week the particular provisions in the bankruptcy law that are designed to help families, along with the amendment Senator TORRICELLI and I developed to further enhance these provisions. Therefore, I am deeply concerned by the fact that this amendment inexplicably allows debtors to discharge debts without being responsible to repay what they can afford.

A practical effect of this amendment is to allow rich debtors to defraud their creditors. Debtors with high income who are receiving child support could subtract child support from the calculation of their ability to repay. Thus, a debtor who earns $100,000 per year and receives an additional $25,000 in child support, and who has mortgage, car, and household expenses equaling $100,000, can go bankrupt in chapter 7 and walk away with $25,000 per year. This is something that should never happen, and this amendment, as the Senate is considering it, is a flagrant example of one-fix. The Senate is considering the hardworking families that end up subsidizing the cost of bankruptcies of others.

### MONTHLY NATIONAL STANDARDS—Continued

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<td>Housekeeping supplies</td>
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<td>Apparel &amp; services</td>
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<td>Food</td>
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<td>Housekeeping supplies</td>
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<table>
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<tr>
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<td>1,018</td>
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<tr>
<td>$7,000 and over</td>
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Furthermore, the definition of household goods in the amendment allows debtors to avoid a security interest in expensive items like $2,000 stereo systems. I am mystified by why windfalls to debtors of this kind are viewed as pro-family. I have been reminded many times during the course of this debate that bankruptcies end up costing every American family at least $400 per year. When these windfalls are incorporated into our bankruptcy laws, hardworking American families end up paying for them.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 1 minute so I can have the same 1 minute the other side had.

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

Mr. GRASSLEY. Mr. President, I want to point out the big deal the Senator from Connecticut made about the IRS regulations and the guidelines not mentioning the word “children.”

The truth is very clear, from the General Accounting Office, but in their study of the IRS guidelines, under a category “other necessary expenses,” if it does not mention children, if it does not take the needs of children into consideration, what in the heck do the words “child care” mean? What does “dependent care” mean, if the needs of children are not taken into consideration? It may not be mentioned in the IRS guidelines per se, but under “other necessary expenses,” it is very clear that the needs of every child will be taken care of.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2532, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) was called). Present.

Mr. DODD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2532, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 305 Leg.]

YEA—45

Akaka  Harkin
Baucus  Hagelin
Bayh  Hollings
Bingaman  Jeffords
Breaux  Johnson
Brownback  Kennedy
Bryan  Kerry
Byrd  Kohl
Cleland

NAY—51

Landrieu  Mikulski  Sarbanes
Lautenberg  Meynihan  Schumer
Leahy  Murray  Torricelli
Leiberman  Reed  Voinovich
Lincoln  Reichelderfer  Wyden

Answered “Present”—1

Boxer  McCain  Santorum

The amendment (No. 2532) was rejected.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2752

Mr. WELLSTONE. Mr. President, I will start out with a statement, I will bring a bit of a new narrative to the debate, and I would like to open with some names.

Mr. WELLSTONE. I thank the Chair.

The PRESIDING OFFICER. The Senator is correct.

Mr. WELLSTONE. I thank the Chair.

Mr. President, we will start this debate tonight, and we will conclude the debate on Wednesday. There will be an hour of debate on Wednesday as well. I want to give this a little bit of context. Mr. President, could I have order in the Chamber? Would Senators please take their conversation outside the Chamber?

I thank the Chair.

Mr. President, I will start out with some narrative that was written by Jodi Niehoff, who works with me, and who is the daughter of dairy farmers, Jane and Loren Niehoff, in Minnesota from Melrose, MN, and close thereby. Grove Township is 6 miles by 6 miles. It is a typical Midwest township. Fields of wheat, corn, some oats, and alfalfa span across the township line. In Grove Township, as in surrounding towns, the biggest topic of conversation is the economic farm crisis.

There are fewer and fewer farms attending local board meetings. It is not because fewer folks care. It is because there are fewer farmers around.

In Grove Township, regardless of which gravel road one chooses to travel along, one will inevitably drive by an abandoned farm. Let me begin by illustrating how the farm crisis affects rural communities. I’ll use Grove Township as an example.

Sometimes we have these debates, and we never talk about it in terms of people.

Reuben Schweitzers—Reuben just recently quit farming. Reuben and his wife Paula and their young boys sold half of the farm. Reuben is now pouring cement at a local construction company.

Mr. President, I will just keep speaking, and if you can’t get order, I will get order.

Mr. President, I would say to colleagues that we could have had a 4-hour debate tonight. Colleagues wanted to go home. So I am accommodating because I think all of us want to get back for Veterans Day. We start this debate tonight about agriculture. It is taken me probably about 8 weeks to get this amendment on the floor.

I would appreciate it if colleagues would take their conversations in the back of the room outside. If we would have order in the Chamber, I am not going to speak until we do.

Mr. President, I thank the Chair.

I don’t like reading about people’s lives, many of whom have lost their farms, and have Senators out here on the floor and others speaking as if it makes no difference.

Reuben Schweitzers—Reuben just recently quit farming. He and his wife Paula and three young boys sold half their farm. Reuben is now pouring cement at a local construction company. Bear again in mind, these loss of farms is just in Grove Township in my State of Minnesota.

Steve and Lori Sand lived about 3 miles from Reuben and Paula. Steve and Reuben went to school together. Steve began farming next to his father’s farm since that time his father Wally was not ready to retire. Steve and Lori, their three daughters, and son could not hang on to the farm. The prices were too low to maintain a household of six and still run the family farm. They moved to Cottage Grove, MN, where Steve works in construction and his wife Lori is now a computer technician. Incidentally, Steve’s father Wally has retired, but none of his children or grandchildren has taken over the family farm.

These are Minnesotans willing to let their names be used so I can tell their story, which is the story of what is happening in agriculture.

Allen Nathie closed down his farm and is now doing small engine repairs. Gloria Schneider sold the farm to her son Glen. Glen and his wife farmed only a few years before they sold their family farm and he and his wife and small daughter moved to Minneapolis.

Dave Feldeward sold his farm and is also driving a truck. Mike Eilering recently sold his farm and is working construction. Danny Frierer and his family quit farming. They still live on the farm, but the barns stand hollow. Marcy Wochnik recently retired and sold her farm to her son, and her son tried for a few years before he threw in the towel. Marcy moved into a house just 6 miles away from her farm. No one has yet purchased the farm.
I am going through the story of farmers and farm families who have quit farming in Grove Township, one township in the State of Minnesota, a small story that tells a large story of what is happening to agriculture and the economy of the amendment I introduced tonight with Senators DORGAN, DASCHLE, JOHNSON, LEAHY, and other Senators.

Alvin and Mary Hoppe also recently sold their farm and moved off the farm. Mary commutes to St. Cloud, and her husband has been doing mechanical work. Their son Jason is 12 years old, but he has always been by his father's side eager to learn farming. Despite Jason's enthusiasm and interest to farm, given the current conditions in agriculture, it is difficult for his parents to recommend this occupation.

This is only a corner of Grove Township in my State. If one crosses the water, one will be in Oak Township, where one could go through another list of farmers who have also had to quit farming. About a quarter of a mile from the Grove and Oak Township line lies the small town of New Munich. Since 1996, New Munich has also declined in residents. The effects of the farm crisis are apparent just walking along Main Street. Ostendorf Grocery closed. Marvin, who is known as Bud, and his wife Rosie have moved on. Rosie commutes to St. Cloud and sells retail clothes, and Bud works at a factory. Ostendorf Grocery was a practical general store. After Sunday mass, folks from the congregation would make quick stops for any last-minute items or simply visit with Rosie and Bud. During the week, farmers often would run into town to pick up a needed ingredient or item at the store. As in most towns, Ostendorf Grocery also served as the news and information center. Rosie always knew of the current events in the area, and folks enjoyed spending a few minutes to talk to her and Bud Groszek.

Since 1996, the elementary school closed. The school closing affected the local businesses. The school also has been used for community events. School children, particularly farm kids, now face much longer bus rides to school. Thielen Meats will close by the end of this year. Thielen Meats was a little mom-and-pop meat shop located across from the J.C. Park. Many farmers would bring a cow to be butchered by their family. The larger shipments of livestock delivered to Thielen Meats were sold directly to residents in the town or in the surrounding area.

Kenny and Rita Revermann may also be closed to serve as a Value Hardware store. After the school closing, the grocery store closing, and the recent news of the meat shop closing, the trips made by farmers to New Munich will grow fewer and fewer. I have received letters from farmers from Minnesota, Kentucky, Iowa, Kansas, Montana, and Missouri. Over and over again, if I had to summarize, these farmers say: We have record low prices, we have record low income, we are not going to be able to make it, it doesn't matter whether we work 19 hours a day, it doesn't matter how good a manager we are, there are economic forces that are destroying our lives. So far, Senator Hatch has not helped. So far, we have acted as if this crisis didn't exist. This amendment tonight, which calls for a moratorium on all of these mergers and acquisitions of the huge conglomerates makes it hard for farmers who are processors to have any leverage when they are only dealing with three buyers. If you are at an auction and you have three buyers for a product, what kind of price do you get?

This is just the first amendment. The first vote next week will be the beginning of a major floor fight over and over again until we change farm policy in the country. It is not just a question of people losing their farms, it is a question of the quality of life, and the communities. When people lose their farms, it is more than just a family. We are seeing a rising incidence of divorce. We are seeing all kinds of tensions within families. We have too many suicide lines in just one community. We have too much depression. We have too many farmers without any life insurance, too many farmers without any health insurance, too many farmers without any health and dental care, too many farmers without any retirement mechanisms. The Senator, who is now standing that he supports all of these amendments. I appreciate the cooperation of the Senator from Minnesota. He has been waiting a long time to get this opportunity. We told him he would get it, and he has it.

For the information of all Senators, the Senate will now debate the pending Wellstone agriculture amendment. However, no further votes will occur on this evening. I want to make that clear. We will hotline both sides so our Members will know there are no further votes this evening.

The Senate will not be in session on Veterans Day, and we will convene next on Tuesday, November 16. On Tuesday, I expect the Senate to debate and possibily complete action on any number of items arriving from the House of Representatives relative to the farm crisis and perhaps other conference reports. I will be discussing the specifics of what the schedule will be with Senator DASCHLE, and we will keep Members informed of the subject matter.

By a previous order, the Senate will conduct a vote relative to the Wellstone agriculture amendment on Wednesday of next week. I suspect additional votes will be required in order to finish the necessary items pending between the House of Representatives and the Senate. The continuing resolution we passed will expire at midnight on Wednesday. I think that will give the Senate more than enough time for final negotiations to be completed, for the House to act, for the package to be received in the Senate, and complete action on Wednesday. However, that is a deadline that I believe we can meet, and we should work to complete our work for the year by then.

We will let Senators know, of course, if there is to be a big package of votes during the day on Wednesday. We will notify Senators exactly what time that will be. Senators should be prepared for the voting to begin as early as 10 o'clock on Wednesday on the Wellstone amendment.

I urge all Senators to be patient and accommodating during the next few days of the session. I thank all Members in advance for their cooperation.

We have a number of nominations we have been working assiduously to clear both sides of the aisle. These are judicial nominations and other nominations. We have a couple more issues we have to check on to confirm everything has been worked out. Also, Senator DASCHLE and I have talked at great length about how to handle the judicial calendar. I think we have a fair arrangement.

I ask unanimous consent a colloquy between the two of us be printed in the RECORD.

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

Mr. DASCHLE. Mr. President, it's my understanding that the majority leader has committed to proceeding to the nominations of Richard Paez and Marsha Berzon to the ninth circuit court of appeals no later than March 15, 2000. Is that correct?

Mr. LOTT. That is correct. I will move to proceed to each of these nominations no later than March 15 of next year.

Mr. DASCHLE. It is also my understanding that the majority leader will work to clear the remaining judges left to vote before the end of the calendar this year, and if they can't be cleared, he will move to proceed to each of the remaining judicial nominees no later than March 15 of next year. Is that also correct?

Mr. LOTT. That is my hope. In addition I do not believe that filibusters of judicial nominations are appropriate and, if they occur, I will file cloture and I will support cloture on the nominees.

Mr. DASCHLE. It is my understanding that Senator Hatch supports your view of cloture on these nominations. Is that correct?

Mr. LOTT. Senator Hatch will have to speak for himself but it is my understanding that he supports all of these nominees and will support cloture if necessary.

Mr. DASCHLE. I thank the majority leader.

Mr. LOTT. I yield the floor.
ravaging rural America. I started out speaking about this crisis in personal terms, in human terms. On present course, the conservative estimate is we will lose 7,000 farmers this next year, but it could be more in Minnesota. On present course, over the next couple of years we are going to lose a whole generation of producers, if we do not change our course of policy.

I do not believe family farmers in my State of Minnesota, or family farmers in America, will be able to continue to farm or will their children be able to farm, unless we change the structure of agriculture. Bob Bergland, who was Secretary of Agriculture in the late 1970s, commissioned a report called "The Structure of Agriculture." He now lives in northwest Minnesota. It was prophetic.

In the past decade and a half, we have seen an explosion of mergers and acquisitions. The top four sheep, poultry, wet corn, and dry corn processors now control 73 percent, 55 percent, 74 percent to 62 percent. The market share of the top four soybean crushers has jumped from 54 percent to 80 percent. The top four flour millers now control 80 percent of production. Mr. President, 49 percent of all chicken broilers are now slaughtered by the four largest firms. The top four firms now control 67 percent of ethanol production. The top four pork producers have increased their market share from 36 percent to 57 percent. The top four beef packers have expanded their market share from 32 percent to 80 percent. The top four beef packers now control 42 percent of production. Mr. President, 49 percent of all chicken broilers are now slaughtered by the four largest firms. The top four firms now control 67 percent of ethanol production. The top four pork producers have increased their market share from 36 percent to 57 percent. The top four meat packers now control 73 percent, 55 percent, 74 percent and 57 percent of the market, respectively. The four largest grain buyers control nearly 40 percent of elevator operations.

The effect of this concentration has basically been to squeeze our producers out. Our family farmers no longer have the leverage or the power in the marketplace to get a decent price. This amendment is a cry from the countryside. Everywhere I go in Minnesota and other States, farmers say: We cannot get a decent price because of this concentration of power, because of this monopoly power. We are going to have to work very hard to survive. When we look at the packers and we look at the grain companies and we look at the exporters and we look at the processors, they are making good profits, sometimes record profits, but we cannot get a decent price.

Farmers say to me: Where is the competition in the food industry? This amendment is an effort to put some competition back into the food industry. We are talking about an 18-month moratorium.

We are saying what we need to do is take some time out. Something is not working. We passed the Sherman Act. We passed the Clayton Act. Estes Kefauver was a great Senator who talked about antitrust action. But we have had this wave of mergers and acquisitions that have led to precious little competition. These conglomerates have exercised their power over our producers and our producers cannot get a decent price. This amendment is not the be-all or the end-all, but I say to my colleagues, if you believe in competition and if you believe family farmers ought to have a chance in the marketplace, then the very least we can do is pass an amendment that says when it comes to these large agribusinesses that have $100 million and over revenue buying up a company with at least $10 million, we ought to say we are going to have a moratorium on this.

For 18 months, we set up a review commission and then we come up with recommendations and we pass some legislation that gives our producers a fair chance in the marketplace. If we pass that legislation in 2 months or 3 months, this moratorium is no longer operative.

Built into this amendment I introduced with Senator Dorgan and other colleagues is the opportunity, if you look at the trends and the practices that have raised concentration in agriculture to record levels. Everywhere family farmers look, whether it is who they buy from or who they sell to, is but a few firms that dominate the market.

The top four pork producers have increased their market share from 36 percent to 57 percent. The top four beef packers have expanded their market share from 32 percent to 80 percent. The top four flour millers now control 42 percent of production. Mr. President, 49 percent of all chicken broilers are now slaughtered by the four largest firms. The top four firms now control 67 percent of ethanol production. The top four pork producers have increased their market share from 36 percent to 57 percent. The top four meat packers now control 73 percent, 55 percent, 74 percent and 57 percent of the market, respectively. The four largest grain buyers control nearly 40 percent of elevator operations.

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I have seen some of these faxes and letters that have come in. I do not even have this in writing before me, but I can almost remember it. Some of them say: Oh, my gosh, this is a threat to co-ops. Co-ops are not covered.

This amendment is not the be-all or the end-all, but I say to my colleagues, if you believe in competition and if you believe family farmers ought to have a chance in the marketplace, then the very least we can do is pass an amendment that says when it comes to these large agribusinesses that have $100 million and over revenue buying up a company with at least $10 million, we ought to say we are going to have a moratorium on this.

For 18 months, we set up a review commission and then we come up with recommendations and we pass some legislation that gives our producers a fair chance in the marketplace. If we pass that legislation in 2 months or 3 months, this moratorium is no longer operative.

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Then some say: This is going to stop all mergers and acquisitions. That is not true either. We set up a test. There is a Hart-Scott-Rodino test right now where, if you have a big company, the Justice Department has to take a look to see whether you are not in violation of antitrust laws. We are applying this to the large conglomerates and large agribusinesses. Then there is the argument, if a company is going under this, this would prohibit them from selling or buying. That is not true either. There is a waiver with the Justice Department for companies faced with financial insolvency. The question is whether or not the Senate is willing to take some action right now that will make a difference. I cannot think, I say to every single colleague, of any vote that we will cast when it comes to family farms and agriculture that is more telling in terms of what the Senate is about. We have a few conglomerates. My case is compelling. They control well over 50 percent of the market. When farmers look to from whom they buy and from whom they sell, it is monopoly or oligopoly at best. They cannot get a decent price. This amendment to the bankruptcy bill—by the way, on present course, more and more farmers will be faced with bankruptcy. Banks, farm credit associations who have seen the anguish of farmers have watched, in horror, as this administration has attacked the grazing in the West. I am going to do everything I can as a Senator to make sure a lot of grassroots people in our farm States and in other States contact Senators because this is a tough fight. A lot of these large companies and a lot of their associations represent these large companies—and I will read the names of the different organizations that are opposed to this legislation—pour in the faxes and pour in the letters. By the way, I say to my colleagues, a good part of what they are saying is not accurate. I understand there are certain interests who give a lot of money and are heavy hitters, who are well connected and who are investors; maybe too much so in both parties. I understand that a call for antitrust action or at least to call for a moratorium on these mergers and acquisitions of these large companies goes directly to the power. But the truth is—and I conclude on this note—this is but a glimpse of what is to come. In some ways, our country today reminds me a little of the gilded age of the 1890s, moving into the next century. We moved into the 20th century. As we went through the 1890s, we had a tremendous consolidation of power which gave rise to the populist movement, gave rise to progressives, gave rise to Teddy Roosevelt, the Sherman Act in 1890, the Clayton Act in the teens, and the Celler-Kefauver Act of 1921 or 1922. That feels the same way. We have CBS being bought by Viacom. We have banks merging, a few banks, a few large insurance companies, a few airlines—concentration of power in telecommunications, concentration of power in agriculture—the list goes on and on. I am a Senator from a farm State. I am a Senator from an agricultural State. I am a Senator from the Midwest. I am a Senator from the State of Minnesota, and when I look at the need to do something about this monopoly power and I look at the need to do something that will give our producers, our family farmers a fair shake, I cannot think of any more important action we can take than to at least have this temporary moratorium on these mergers. Mr. President, I ask how much time I have left this evening to Senator HARKIN. I was going to suggest the absence of a quorum, but if my colleague from Oregon is going to speak, I will not do so. Mr. President, I yield the floor.

Mr. SMITH of Oregon. Mr. President, I rise to respond to Senator WELLSTONE, not with any personal animus at all, but to give a perspective on this issue that perhaps I uniquely can give an economy. I say to Senator WELLSTONE, before I came into politics, I was a pea processor. I say to the Senator, his amendment covers everybody I know in the industry, save those who are in farm cooperatives. Mr. WELLSTONE. Mr. President, will the Senator yield for a quick question? I have to leave to try to get back to Minnesota to mark Veterans Day, but I want to ask my colleague, is he willing to cooperate with which he was involved? Mr. SMITH of Oregon. I ran a stock company, a food processing company. But its ownership was not by farmers but by stockbrokers. Mr. WELLSTONE. I see. I thank my colleague.

Mr. SMITH of Oregon. I come to the floor, I say to Senator WELLSTONE, with the same interest that he has in farmers. I care very deeply about the rural economy. I note, with great concern, what is happening to my farmer friends and the rural economy. And I simply come here, in respect, and say, while as well-motivated as I believe the Senator from Minnesota is with his amendment, it is too broad and too wrong when it comes to what we believe in this country, which is a free market. I look at what has affected the farmers in my area and much of rural Oregon. I know in Oregon the Asian flu has had a great deal to do with a loss of markets and low commodity prices. I have watched, in horror, as this administration has attacked the grazing industry in my State, going after their grazing rights, making sure the little guy can't utilize public lands anymore. I have watched, with amazement, that in the Columbia Basin there is actually serious talk about taking out transportation systems provided by hydroelectric dams that are able to transport hundreds of millions of tons of wheat and grain inland from Idaho all the way to the Port of Portland and out into the Pacific rim. What happens to those farmers? This bill does not help at all.

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farmers and to produce high-quality crops with low production costs—they leave farmers with no effective alternatives. This bill does not address these farmers' concerns.

I have to say that the way the Senator from Minnesota has described this day of decision with respect to farmers, I think he has forgotten that we in this Congress have already voted out $8.7 billion in emergency assistance to farmers to help tide them through this very desperate season.

May of us has gone to the U.S. Trade Representative and pled that this time, in Seattle at the WTO meetings, agriculture not be left out. One of the predicates of the Freedom To Farm Act was that we would increase markets and we would decrease regulations. We have not done either of those things. We have diminished markets, and we have increased regulation. We have, I am afraid, perhaps cut the farmer too short a deal. That is in part why I opposed another $8.7 billion in assistance this year.

In addition to that, I have tried to help farmers with the whole issue of immigrant labor, trying to reform the H-2A program. I am amazed at the things that are being said about those who actually believe immigrant workers should have some legal stature to be here, to do labor that they want to do and that agricultural employers need them to do if they are going to have a harvest. And I have been amazed at the way that we, who are trying to improve their legal standing, are characterized by those who are in the labor shortage business.

If you want to hurt a farmer, just make sure he does not have the ability to have his crops harvested. The amendment of the Senator from Minnesota does nothing for these farmer's concerns.

I want him to know, and anyone else interested in this issue, that Senator Hatch, of the Judiciary Committee, has announced that there will be hearings on agricultural concentration so we can examine the instances where perhaps the Federal light ought to be put on a few mergers and acquisitions. We have laws to take care of those things. They need to be enforced. Perhaps they are not being enforced to the extent some would prefer. Senator Hatch's hearings I believe will get at that very quickly.

But the thing I would really to impress upon my colleagues in the Senate is that Senator Wellstone's amendment exempts farm cooperatives. I have nothing against farm cooperatives. They do a lot of business in my State, and they do a lot of good in my State. They play a very important role in agriculture. About one-third of the farmers in this country have a farm cooperative for the outlet of their production. How about the other two-thirds who do not get their products for stock-owned companies.

What the Senator's amendment is proposing to do is to say that in this 18-month moratorium, no market conduct, no mergers, no acquisitions can occur among stock-held companies. However, this same activity, among farm cooperatives, is no problem. That makes no sense to me. In fact, a lot of cooperatives have formed stock companies. Two things, this is just completely unfair. If we should do something this un-American, this countermarket, we should do it to all. But, frankly, let's not do it to any.

There are many ways to help the farm community without this kind of market intrusion by the Government. This really is an amendment that will ask every Senator what they believe about the free market system, not what they believe about helping farmers.

My Heavens, there is almost nothing you could bring to this floor that would actually help a farmer that I would not vote for or have tried to vote for and have taken a lot of heat for believing that things that really do help a farmer to survive. But to go in and say one class of farm processors is exempt but two-thirds of you cannot participate in the free market, frankly, strikes me as strange.

I will tell you another thing that really is troubling based on my experience. I have seen many farm cooperatives be very good at producing lots of food, lots of surplus. In some instances, some have not been as good at marketing that surplus. So in a back-handed way, what we are saying is, if you organize yourself in this way, you get the benefit of the free market, but if you organize yourself as a stock company, you are limited as to how you can merge, sell, and acquire.

What does that mean to two-thirds of the farmers in this country? What does that mean to them, if their output goes to a stock food processor? It means the food processor, if he or she is in trouble, can go out of business and all the other farmers in this country that real- ly do help a farmer to survive. But to go in and say one class of farm processors is exempt but two-thirds of you cannot participate in the free market, frankly, strikes me as strange.

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If there are antitrust problems, we have laws for that. If there is illegal conduct, we have laws to go after crooks. But why penalize all of the agricultural community that organizes themselves in stock companies as opposed to farm cooperatives? It makes no sense. I, frankly, don't know of a precedent for that in our Nation's history. Perhaps someone can show me one. This is not the way to help farmers. This is wrong. This penalizes the farmers and the processors who are trying to deliver to the farmer a good outlet for their product and to pay them a fair price.

I am aware of one farm cooperative this year that has said to their growers, the dollar you put in for a crop, we are going to pay you 75 cents this year. And, in this instance, all of the stock food processors are paying 100 cents on a dollar, plus the money they guar- anteed by the contract. So are we going to punish the processor that is delivering 100 cents and more on the dollar? We are going to advantage those who are delivering less than that?

This amendment is misguided and must not pass, or we will be punishing farmers and food processors that simply do not deserve this kind of treatment from the Senate.

I rise in opposition to the amend- ment being brought forward by the Senator from Minnesota. While I recog- nize the concern among farmers in his state and mine over agribusiness concen- tration, I believe we would be making a profound mistake if we were to go to the curb and throw the baby out with the bathwater by adopting this amendment today.

I, too, am concerned about the future of family farmers and American agriculture. Agriculture is one of the largest industries in Oregon. It represents more than 140,000 jobs, a lot of on-farm employment, food processing, marketing, and all the other factors that go into bringing fine Oregon produce to restaurants, grocery stores, and dining room tables around the country. It is the cornerstone of many Oregon counties, and it flourishes just a short drive from the urban centers of Portland and Eugene. So when farmers are concerned about something, I am too.

I am well aware that many people in farm country are suffering these days from another year of low commodity prices. Most of the farmers that have spoken to me about this current farm crisis believe it is mainly due to the lack of overseas market access, expensive environmental and labor regu- latory burdens, and in some areas, natural disasters. For a state like Oregon that exports much of its produce across the Pacific, the recent Asian financial crisis has had a devastating impact on farmer's bottom lines. Moreover, in the Northwest especially, I have been wit- ness to an Administration that has not been particularly friendly towards the interests of rural communities by con- tinuously threatening long-standing grazing rights and the essential grain transportation network afforded by the lower Snake River dams.

So I have tried to be very sensitive and responsive to the needs of farmers in rural America that have fallen into something of a mini-depression while watching their urban counterparts enjoy an economic boom. Here in the Congress, we have decided to direct bil- lions of taxpayer dollars in assistance to help tide farmers over during these hard times. Another $8.7 billion was sent out to farm country this fall. I have voted for these assistance pack- ages knowing that they are short-term...
Hatch just announced last week that the House Judiciary Committee is overreaching and bluntly overreaching. His amendment would impose a moratorium on mergers and acquisitions among agribusinesses with annual net revenue or assets of more than $100 million for one party, and $10 million for the other. This would affect agribusinesses, processors, dealers, food processors, and the consumer. Moratorium would remain in effect for 18 months or until Congressional legislation on this issue is enacted. In addition, this amendment would create a new 12 person panel to investigate the issue and report back to the Congress and the President. I find it remarkable that one week after tearing down barriers to agribusiness and increased efficiencies in the financial sector, we are now considering doing the opposite for agribusiness, an industry in part responsible for delivering the safest and most economical food supply to the world. What part of our free enterprise system for American competitiveness would we be sending to the business world by placing such an arbitrary 18 month moratorium on only certain actors within a particular industry?

Unlike most people here in the Senate, I have actually run a food processing business. I have had to meet a payroll, efficiently produce a high quality product, endure all of the bureaucratic government regulations—and do it all at a competitive price the consumer was willing to pay. I had to go out there and compete in the marketplace. From my experience, I can tell you that it is a lot more competitive, at least in the frozen vegetable business, than the agribusiness world. This amendment would have you believe. I am afraid that the Wellstone amendment, which has not been subject to Senate hearings or markup in committee is overreaching and blatantly unfair to many honest business people in the agricultural sector. We all know that revolutionary innovation has developed in technology, marketing, and food production and processing over the last one hundred years. Some of us make a living from an agrarian economy to an industrial economy to an information technology and service economy. Today American agriculture has become a part of a global marketplace. This is a far cry from the turn of the century when many if not most Americans were directly employed in food production and many producers distributed their goods largely within their own local area. The agribusiness sector—from processors and brokers to suppliers and grocers—has changed dramatically and for the worse. Just like the small farmer buying land from his neighbor to add production acreage, many food processors and agribusinesses have found it helpful, if not imperative, to band together to meet the challenges of the new economy and, ultimately, the demands of the consumer.

The demand of the consumer that I believe is a large reason for the growing disparity between the food dollar paid at the retail level and the cash received by farmers for their crops. Today's consumer is demanding greater convenience, enhanced nutritional value, choices in packaging, low fat and nonfat products, faster and easier to prepare items—all values usually added to the product after it leaves the farm. In addition, all of these new products have to be marketed in some way so that the customer knows they are available and attaches value to the brand names. And, of course, these products must be offered at a price the consumer is willing to pay.

There are a host of reasons why companies and industries fail. Sometimes only certain actors within a particular industry need to sell an underperforming or unprofitable division. There may be another business out there with the right mix to take these divisions on and make them efficient and profitable. In some instances, businesses that are failing would have to close their doors altogether if there is no willing buyer to come in and restructure the company. If there is no buyer for these businesses, the alternative is simply to see these jobs lost. This ability to adjust to the market and the changing demand of consumers is a fundamental component of our free enterprise system. Now, I am aware that a provision of the Wellstone amendment might allow some businesses to stress to request a waiver from Janet Reno, but that option strikes me as especially bureaucratic and time-consuming.

Despite their portrayal as the oppressors of family farmers, many agribusinesses are family-owned operations or small businesses. Although $10 million in assets or annual sales sounds like a lot, when considering the capital-intensive nature of many of these businesses and the fact that they are available and attaches values to the product.

I concur with the Senator from Minnesota that this is an important issue. However, I must respectfully disagree with his conclusion that an outright moratorium on agribusiness mergers is the right response. His amendment would impose a moratorium on mergers and acquisitions among agribusinesses with annual net revenue or assets of more than $100 million for one party, and $10 million for the other. This would affect agribusinesses, processors, dealers, food processors, and the consumer. Moratorium would remain in effect for 18 months or until Congressional legislation on this issue is enacted. In addition, this amendment would create a new 12 person panel to investigate the issue and report back to the Congress and the President. I find it remarkable that one week after tearing down barriers to agribusiness and increased efficiencies in the financial sector, we are now considering doing the opposite for agribusiness, an industry in part responsible for delivering the safest and most economical food supply to the world. What part of our free enterprise system for American competitiveness would we be sending to the business world by placing such an arbitrary 18 month moratorium on only certain actors within a particular industry?

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amendment, they would be in direct competition with other agriculture businesses and free from the requirements of this moratorium.

Mr. President, with this proposal, you would be led to believe that the Justice Department is looking only after the companies divested four port elevators, four river elevators, a rail terminal, and made a number of other concessions to enhance competition. The Justice Department intervened and required similar divestiture before approving the Monsanto Corporation's acquisition of Dekalb Genetics Corporation, ensuring continued competitiveness in the genetically-modified seed industry. Another announcement came just last week with respect to the merger of New Holland and Case Corporations, major farm equipment suppliers. I know the definition of supplier in this amendment exempted farm equipment, but many farmers are concerned about the potential implications of this merger, nonetheless. In this case, the Justice Department again required divestitures on the part of both companies. So, so I think the evidence is clear that the administration is looking at these low ball proposals, and looking fairly carefully at what impacts they may have in the market, and enforcing federal antitrust law. Coming on the heels of last Friday's well-publicized victory for the Antitrust Division, I find it astounding that there are those that would imply this is an agency that is sleeping on the job.

In closing, I believe the matter at hand is a simple one. Mr. President, the Wellstone amendment is the wrong answer to the wrong question. This isn't the key to farm recovery—that lies with expanding trade opportunities, government regulatory relief, and fulfilling our promises under Freedom to Farm. And this is not even the way we have to take a pause to get a handle on the merger mania in agriculture. All this amendment does is put a hold on mergers and acquisitions involving large agribusiness firms for a period of 18 months or until legislation is in effect addressing market concentration in the agricultural sector, whichever comes first. So it can't be longer than 18 months. All this amendment is saying is that we have to take a pause to get a handle on the mergers and acquisitions in agriculture that I believe have gotten out of hand and out of control. Some will say the amendment goes too far, as my friend from Oregon just said. But I think the merger mania in agriculture has gone way too far already. We must act before the family farm is driven to total extinction.

I tell my colleagues, there is no more critical issue to the farm families of America than the rapid and sweeping changes taking place in the economic structure of agriculture. It is an issue that I believe overshadows even the record low commodity prices that are devastating rural America. Farm families and their communities have their backs against the wall, and they are fighting for survival. They are being overrun by economic forces far more powerful than they are. The least we can do is to provide a time-out before it is too late.

Far too little attention has been paid to the tremendous consequences of this unbridled and unopposed concentration in the food and agricultural sector affects not only family farms and rural communities. Everyone eats. Consumers ought to ask whether they will enjoy the same high-quality food at reasonable cost if our food supply is in the hands of a few corporate giants instead of many thousands of family farms.

Make no mistake about it, the sweeping consolidation in the food and agricultural sector is not about productive efficiency. When it comes to efficiency, The Supreme Court lets the family farm win. What is taking place is about the corporate bottom line: stock deals, positioning in the market, and capitalizing on economic power. Is it in the best interests of this country to have a food and agricultural system dominated by the principles and standard operating procedures of Wall Street? Does it make any sense to continue down a path of ever increasing economic power and consolidation among agribusiness firms while family farmers are driven off the land?

The underlying principle of our Nation's antitrust laws is that we are all better off with a system of full, free, and fair competition in the markets. The rapidly growing economic concentration in the food and agricultural sector stands this principle on its head. We have to ask what the antitrust laws on the books are not working to stem the tide of economic concentration in agriculture.

Now, the speaker before me—I listened carefully—said over and over again that we shouldn't be interfering in the marketplace. Well, there are times when we must interfere in the marketplace because unbridled exploitation of the marketplace leads to concentration, undue economic power, and monopoly practices. If you don't believe me, look what has happened with Microsoft. Why did we have the Clayton and Sherman Antitrust Acts in the first place? Because unbridled economic power led to more and more concentration, more and more monopolies, and less and less competition.

I believe in the marketplace, but the marketplace must be tempered by adequate rules and regulations and laws that keep one party from becoming so big it can squash out all effective competition. So, to say we shouldn't interfere in the marketplace is to fly in the face of what our stated policy has been for the last century in America.

We do interfere in the market. We interfere in the market to try to keep it a free and open and fair and competitive market. Otherwise, let the big get bigger, let them buy out everybody else, and let them squash competition. Why bring a case against Microsoft? Because I think it is being shown that Microsoft is engaging in anticompetitive behavior to squash out competition. The question the consumer wants to ask is, "What will they charge for what they offer, not what competition in an open market would bring to the consumers of software, but whatever
Microsoft wants to charge for what they choose to sell because they can effectively squeeze out everyone else. I don't buy the argument that we have to keep our hands off of the market. We tried that in the past, and it brought nothing but chaos. So you have to have interventions periodically. I think where we are in agriculture now begs us for that kind of intervention.

Now, there is one other important aspect of this amendment. It sets up an Agriculture Concentration and Market Power Review Commission to take a close look at economic concentration in agriculture and to make recommendations on changes in antitrust laws and other federal laws and regulations in order to ensure that there is a fair and competitive marketplace for family farmers and rural communities.

Again, in that connection, I want to say that the present justice Department has most actively in that area of antitrust enforcement in agriculture of any justice Department in my experience in Washington. So I commend the Attorney General and especially commend assistant Attorney General Joel Klein for bringing a new life to antitrust enforcement in agriculture and elsewhere. Incidentally, I congratulate Mr. Klein for his wisdom and judgment in taking on the Microsoft case, because I believe if this case had not been pursued, Microsoft would have gotten even bigger and bigger and more and more of any competition would have been snuffed out. I think this case is going to help consumers.

But the justice Department can only do so much under the present state of our antitrust laws. We must keep in mind that the antitrust laws on the books were written around the close of the 19th century, and we are now at the beginning of the 21st century. The economic structure of agriculture and agricultural businesses has changed dramatically in the intervening years. In addition, there have been many court decisions interpreting and applying the general language of the Sherman and Clayton Acts. Those decisions, quite frankly, have not all been favorable to the strong antitrust enforcement that I believe we need in the area of our food and agriculture system.

So, at the end of this century, almost 100 years after the Sherman and Clayton Acts were first decided, our antitrust laws have evolved and have become more complex and more difficult to apply. I believe we need in the area of our food and agriculture system.

There is a lot of rhetoric flying around about sustaining the family farm in this body. This amendment allows us to address the greatest threat to the survival of family farms now existing. This amendment provides for a pause, a breathing spell, so family farms are not driven to extinction before we can even get a handle on what has happened.

I urge my colleagues to support the amendment. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DASCHLE. 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. DASCHLE. Mr. President, I wanted to come to the floor for just a moment to express my support for the Wellstone amendment, as well. I commend Senator Wellstone, from Minnesota, as well as the Senator from Iowa, for their work and for the effort that this amendment represents.

Basically, this amendment has a very simple purpose. It is simply to take a deep breath, to close our eyes, and to give careful thought to what is happening in agriculture today. We all espouse the free enterprise system. We all say that we are enthusiastic advocates of real competition, which is really the essence of the free enterprise system—competition. We all express our grave concern when we find circumstances within the economy that are not competitive. Yet, as we look at agriculture today, as we look at the tremendous economic power now represented in fewer and fewer companies, with more and more mergers underway almost weekly, one has to ask, how much is enough? When do we understand the very tenets of free enterprise by continuing to look the other way? We have understood the reverse of it: we see it especially in livestock. The latest announcement that Smithfield Corporation will be acquiring Murphy Farms illustrates the point. There are fewer buyers. There are fewer processors. There are fewer options. There are fewer and fewer competitors.

Mr. President, when that happens, we reach a point where there is no competition. I am not one who is prepared today to say that there is collusion in the marketplace. I am not people are getting away with it. The fact is that we are seeing mergers happen more and more, and the approach the large processors are taking—get involved in production, get involved in transportation, get involved in wholesaling, get involved in retailing, get involved in single aspect from top to bottom. I am concerned about vertical integration.

It seems to me that when we made the decision to break up the old telephone company back in the early 1980's, we created a competitive explosion that happened very quickly on both sides, and from which we are still benefiting today. We see things that are happening today that make other countries' heads spin. We broke up a large company, and we made progress the likes of which we could have never have anticipated when we did it, to analyze the kind of competition, the kind of excitement, the kind of enthusiasm in agriculture as we now see in telecommunications.

Most important, I am hopeful that we will send the right message. I am hopeful that we can simply say, Look. At the very least, let's stop before we allow this to go any further for just a
few months—18 months. Let’s make some good decisions, and calculate whether or not this is good for the country and good for the agriculture industry. I think it is a good amendment. I support it.

I yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be laid aside, and I call up unanimous consent that the pending objection, it is so ordered.

AMENDMENT NO. 2648

(Purpose: To protect the citizens of the State of Vermont from the impacts of the bankruptcy of electric utilities in the State)

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the pending amendment be laid aside, and I call up amendment No. 2648, and ask that the amendment be agreed to, and the motion to reconsider be laid upon the table.

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

The legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY), for Mr. J. EFFORDS, proposes an amendment numbered 2648.

The amendment is as follows:

TITLE — PROTECTION FROM THE IMPACT OF A BANKRUPTCY OF CERTAIN ELECTRIC UTILITIES

SECTION 01. SHORT TITLE.

This title may be cited as the “Emergency Imported Electric Power Price Reduction Act of 1997.”

SEC. 02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the protection of the public health and welfare, the conservation of national security, and the regulation of interstate and foreign commerce require that electric power imported into the United States be priced fairly and competitively;

(2) the importation of electric power into the United States is a matter vested with the public interest that—

(A) involves an essential and extensively regulated infrastructure industry; and

(B) affects consumers, the cost of goods manufactured and services rendered, and the economic well-being and livelihood of individuals and society;

(3) it is essential that imported electric power be priced—

(A) in a manner that is competitive with domestic electric power and thereby contribute to robust and sound national and regional economies; and

(B) not at a rate that is so high as to result in the imminent bankruptcy of electric utilities in a State; and

(4) the purchase of imported electric power by the Vermont Electric Power Company under the Firm Power and Energy Contract with Hydro-Quebec dated December 4, 1987—

(A) is not consistent with the findings stated in paragraphs (1), (2), and (3); and

(B) threatens the economic well-being of the States and regions in which the imported electric power is provided contrary to the public interest of the United States as set forth in the findings stated in paragraphs (1), (2), and (3).

(b) PURPOSES.—The purposes of this title are—

(1) to facilitate the public policy of the United States as set forth in the findings stated in paragraphs (1), (2), and (3) of subsection (a);

(2) to remove a serious threat to the economic well-being of the States and regions in which the imported electric power is provided contrary to the public interest of the United States as set forth in the findings stated in paragraphs (1), (2), and (3) of subsection (a);

(3) to provide for reimbursement of the price elements referred to in section 02(a)(4); and

(4) to facilitate the public policy of the United States as set forth in the findings stated in paragraphs (1), (2), and (3) of subsection (a).

The amendment is as follows:

SEC. 03. UNLAWFUL CONTRACT AND AMENDED CONTRACT.

(a) IN GENERAL.—Effective on the date that is 180 days after the date of enactment of this Act, as the contract exists on the date of enactment of this Act, shall be void.

(b) AMENDMENT OF CONTRACT.—This title does not preclude the parties to the contract referred to in section 02(a)(4) from amending the contract for entering into a new contract after the date of enactment of this Act in a manner that is consistent with the findings and purposes of this title.

SEC. 04. ENFORCEMENT.

(a) IN GENERAL.—Only the Attorney General of the United States in which electric power is provided under the contract referred to in section 02(a)(4) as the contract may be amended after the date of enactment of this Act, may bring a civil action in United States district court for an order that—

(1) declares the amended contract not consistent with the findings and purposes of this title and is therefore void;

(2) enjoins performance of the amended contract; and

(3) compels the electric utilities that are party to the amended contract of any liability under the contract.

(b) TIMING.—A civil action under subsection (a) shall be brought not later than 1 year after the date of the amended contract or new contract.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2648) was agreed to.

Mr. LEAHY. Mr. President, in reference to the bankruptcy bill, I am pleased that the Senate has offered the managers’ amendment. It greatly improves the underlying bill and will improve the suggestion from both sides of the aisle.

I am pleased we passed the Kohl-Sessions-Grassley-Harkin amendment on homestead exemption.

I wish the drug amendment, which was adopted by a 50–49 vote earlier this afternoon, had not been agreed to. I think it was the wrong direction to go. But the Senate voted.

I regret that the Senate rejected the Dodd amendment. But I note that with the efforts of the Senator from Iowa and the Senator from Utah, the Senator from New Jersey, Mr. TORRICELLI, and myself, we narrowed the number of amendments from over 300 to approximately 30. We are working through them.

I should note just for the schedule that we have a number of Democrats who have offered short time agreements on their amendments to expedite getting their votes.

I thank Senators FeINSTEIN, SCHUMER, and DODD for their cooperation in getting very short time agreements on their amendments. I compliment the Senator from Iowa. He and his staff worked with me and my staff, as well as Senator HATCH and Senator TORRICELLI. We have cleared out a lot of what looked to be a totally unmanageable bill with the number of items we had before us.

I yield the floor.

Mr. HELMS. Mr. President, protecting America’s children, our most vulnerable future leaders, is one of the highest obligations of government. Foremost among the reasons for waging a war on illegal drugs is the threat drugs pose and the damage they inflict on the children of America.

At the core, it has always been understood that drug policy is primarily a federal responsibility. The vast majority of illegal drugs consumed in the United States are produced outside of our borders, smuggled into the country, transported across state lines, and distributed via a complex multi-faceted criminal network. If we hope to combat the spread of this cancer effectively, the federal government simply must take the lead role.

The able Senator from Georgia, Mr. COVERDOLL, expressed that view well when he said:

[While our schools are the responsibility of states and local communities, the federal government has a responsibility to lead. We must act now to ensure that every child has the opportunity to learn in a safe and drug-free school environment. If we send our children on drugs is a real problem. When the message is anything short of zero tolerance for drugs, we encourage drug usage by kids.

Mr. President, I agree absolutely. This recognition led me, along with several other Senators, to introduce a bill in the past two Congresses to extend the provisions of the Gun-Free Schools Act to illegal drugs. A modification of the Hatch-Ashcroft-Abraham drug amendment, of which I am a proud cosponsor.

I am thankful for the opportunity once again to allow Senators to go on record in support of the eradication of illegal drugs from our schools. Simply put, my amendment conditions receipt of federal education funds on student drug free schools. We must send the message to our children on drugs is a real problem. When the message is anything short of zero tolerance for drugs, we encourage drug usage by kids.

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It is time to provide a logical and common sense extension of that act by focusing not merely on the gun but on why students take guns to school in the first place. We must acknowledge that many children take guns to school either because they are involved in illegal acts and seek to protect themselves from those who are. A comprehensive effort to rid our schools of weapons must eliminate the reasons why students arm themselves not merely prohibit the possession of weapons.

This realization is not lost on those who are on the “front lines” of our war on drugs. When surveyed, students, teachers, and parents express overwhelming support for the adoption of a zero tolerance policy for drugs at schools. In fact, the closer they are to the problem, the more enthusiastic they are in support of zero tolerance.

For example, the CASA study that I mentioned earlier found that 80% of principals, 73% of teachers, and 69% of parents support zero tolerance. Additionally, 85% of principals, 79% of teachers, and 82% of students believe this policy effective at keeping drugs out of schools and believe the policy would actually reduce drugs on their campus. In conclusion, the CASA report stated: “If these students believe them [zero tolerance policies] so effective, these policies must make an impact on their decisions to keep drugs out of school.”

Mr. President, this policy is firm but fair. The drug trade and its violence associated with the drug trade are not limited to those who are active participants in the trade. The futures of children who want to learn are often sacrificed by those disruptive students who seek to victimize their classmates.

A clear link between school violence and drugs was found by the PRIDE survey, conducted by the National Parents’ Resource Institute for Drug Education, when it reported that:

Gun-toting students were 23 times more likely to use cocaine; gang members were 12 times more likely to use cocaine; and students who were removed from school were 6 times more likely to use cocaine than others.

The connection between drugs and school violence is apparent.

Mr. President, the devastation wrought by illegal drugs crosses all geographic, political, and economic boundaries. It is not confined to a region of the country or a class of individuals. As one example, according to the North Carolina State University’s Center for the Prevention of School Violence (a remarkable organization that tracks the incidence of school crime in North Carolina and suggests preventative measures), “possession of a controlled substance” has been either the first or second most reported category of school crime in my home state for the past four years. Regrettably, I suspect that many other states share that dubious distinction as well.

In recognition of the federal obligation to foster safe schools, the Congress passed and the President signed the Violent Crime Control and Law Enforcement Act that I mentioned earlier. Many commentators have, at least in part, credited that act with reducing the number of guns brought to our schools.

Mr. President, I regret that I was unable to be here for the votes yesterday on the minimum wage. In the past, I have opposed increases in the minimum wage because of my concern about the impact on small businesses as well as the long-term effects of the 1996 minimum wage increase on jobs and the economy. Many small enterprises operate on a very thin margin, and the imposition of additional costs could result in the closure of small businesses and the loss of jobs. Such an outcome would serve only to hurt the very people we are trying to assist.

I understand how difficult it is to make ends meet in today’s economy. Many families are struggling and many small business people who create the vast majority of new jobs are clinging to solvency. I believe Congress must work to enact measures to strengthen the small business sector, bolster job creation, and enhance job security, including further responsible tax and regulatory relief.

I oppose the Kennedy amendment because it combines a minimum wage increase with an additional tax burden on every business that faces a higher personnel cost. I support the Domenici amendment to incrementally increase the minimum wage because it also provides real tax and regulatory relief for small businesses who may be adversely affected by the additional costs they will incur.

The Domenici amendment allows minimum-wage workers to earn a better living. At the same time, it provides $18.4 billion in tax relief over five years to small businesses across America to help them offset the increased employee costs of this minimum wage increase. Small businesses will now be allowed to increase their expenses to $30,000, and benefit from a permanent extension of the Work Opportunity Tax Credit and a repeal of the temporary Federal Unemployment Tax Act surtax. Furthermore, this amendment allows 100 percent deduction for self-employed health insurance, phases in health-insurance and long-term care above-the-line deductions, and makes pension reform proposals to increase employees’ financial security. This tax relief is entirely paid for by closing corporate tax loopholes in the first year and then using a small portion of the projected non-Social Security surplus in the ensuing years, without dipping into the Social Security Trust Fund.

One aspect of the Domenici amendment that troubles me is the increased deductibility of business meals and entertainment costs. I have always opposed allowing a tax deduction for the so-called “three-martini lunch” for corporate executives, although this amendment limits the benefits of this tax deduction as well as the combined costs for self-employed individuals. I question whether this tax deduction is the highest priority of small businesses, or whether there are other more broadly
beneficial tax breaks that could have been included in this bill to assist those businesses most likely to be affected by the minimum wage increase.

Mr. President, because the Domenici amendment combines a $1.00 increase in the minimum wage with tax and regulatory relief to offset the negative impact of increased personnel costs on small businesses and the economy as a whole, I would have voted for the amendment.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, for the leader, I ask unanimous consent that there be a period for the trans- action of routine morning business, with Senators permitted to speak up to 10 minutes each.

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

HONORING VETERANS DAY

Mr. BYRD. Mr. President, as daylight hours shorten and brightly colored leaves fall from the tree branches, we gradually descend into the winter season. Throughout the year, and especially in the fall, painting the hills glorious colors, leaves us with a chilly palette of greyer skies, leafless trees, and a long wait before the spring blossoms emerge from their underground bulbs. Although we may feel the cold and the bitter reality of shorter days, the promise of life in the spring awaits us. This autumn, however, we will be in the quarter of the year naturally suited for hibernation—a season, despite festive gatherings, associated with the death needed for renewal. During this season we celebrate Veterans Day to honor veterans who, with their death and sacrifice, have renewed and sustained the freedom and promise of our great republic.

Each year at the eleventh hour of the eleventh day of the eleventh month we celebrate the end of the fighting in Europe in 1918 that ended the Great War. When I was a boy, we called this day Armistice Day in honor of the Armistice between the Allies and the Central Powers that ended the horrible trench warfare that had torn Europe apart. In 1926, Congress proclaimed Armistice Day as a national holiday. For the past 83 years we have recognized this tradition of dedication to serving the Armed Forces, the United States armed forces, on this day. It is a day when we remember the sacrifices of all those who served and the men and women who have served our nation proudly—those who have served more than ten of every one-hundred West Virginians. This tradition of dedication to serving our country through the turmoil and change of the twentieth century, one hundred years ago, has stood as a testament to the dedication and commitment of our veterans to the survival and strength of this nation.

Largely through the might of our Armed Forces, the United States enjoys a position of international leadership, yet, the promises to veterans today?

As a nation, we are good about honoring our war dead with memorial days such as Veterans Day, and with memorials of stone that dot our capital and other towns and cities across the country. We need to be as good to our living veterans. Today, many of our veterans are still affected by the time they spent in service. We can best honor them by continuing to provide a high quality of medical care. We can also honor our veterans by continuing to search for answers to questions of service-related injury, and by providing for those who have experienced such injuries. We must also work to prevent such injuries from recurring. For instance, we must remain committed to pinpointing the cause of the illness of Gulf War Syndrome. Recent reports issued by the Department of Defense indicate that certain substances our military men and women were directed to take during their service in the Gulf War cannot be ruled out as causes for this syndrome. We must continue to focus our attention on pinning the cause of the symptoms experienced by more than one-hundred thousand Gulf War Veterans.

So, this year on Veterans Day, let us reflect on the men and women who have valiantly served our Nation, both living and dead. Upon reflection, we should realize the need to recommit ourselves to honoring veterans, not only with unfurled flags and patriotic up-tempo marches but also by serving the men and women who have served our nation. As the leaves fall from the trees, and our veterans age and pass on, we must remember that what has always kept the tree of liberty safe and strong through the frost and chill of many brutal winters is the commitment of our veterans to nourish the roots of freedom.

Mr. DOMENICI. Mr. President, I rise today to salute the selfless men and women who have sacrificed so much in the cause of securing our freedoms that we, as Americans, enjoy today. Volunteering one’s body and mind without thought of consequence in order to safeguard our way of life is the ultimate act of patriotism. Today, we recognize the importance of the service rendered by our Nation’s veterans to preserve peace and freedom.

As a Senator from New Mexico, I take great pride in the fact that New Mexico has among the top thousand per capita a military retirement populations in the Nation and honor the prominent contributions they have made towards the preservation of our great Nation.
During World War II, members of the 20th and 51sth Coast Artillery, better known as the New Mexico Brigade, repelled Japanese attacks for 4 months before being overwhelmed by disease and starvation. Following the ensuing capture of the battalion, we were subjected to an 85-mile "Death March." These men were then held for more than 40 months in Japanese prisoner of war camps. Of the 1,800 men in the New Mexico Brigade, less than 900 returned home and a third of those who did died within a year of returning to the U.S. The bravery exhibited by the New Mexico Brigade is characteristic of the men and women that comprise our Armed Forces.

As a nation, we have an obligation to provide for those who have risked everything to the benefit of all. I am pleased that this session of Congress has produced legislation which will increase funding for veterans' health care by $1.7 billion for fiscal year 2000. However, we need to remain vigilant in our commitment to provide for those who are charged with the considerable task of defending this country from potential adversaries.

Today I would like to pay tribute to our veterans and I am sure that my colleagues will join me in honoring these valorous men and women for their dedicated service to our great Nation.

Mr. KENNEDY. Mr. President, one day a year, on Veteran's Day, America pauses to recognize the sacrifices and the contributions of our veterans. We express our gratitude to all those who have served our nation so well. For all of the veterans being honored today, I salute you for your service and your dedication to our country.

All veterans deserve our gratitude for their service. What is especially fitting that we take special notice of the nation's World War II and Korean War veterans.

America is losing 1,000 of its World War II and Korean War veterans every day. So does our opportunity to pay tribute to them directly.

Tom Brokaw has called the World War II generation the "Greatest Generation." He captured the essence of this generation in his recent book by that name. He stated:

The World War II generation came of age during the Great Depression and the Second World War and went on to build modern America. The women whose everyday lives of duty, honor, achievement, and courage gave us the world we have today.

The World War II generation and the size of its veteran population are unique in American history. Sixteen million Americans served in World War II from 1941 to 1945. That war united all Americans—men and women; blacks and whites; rich and poor; old and young. My oldest brother Joe gave his life, and Jack served with great courage on PT-109 in the Pacific.

As much as we owe the World War II generation, we are still waiting for the construction of a national memorial in Washington to their service. At last, a site on the Mall has been selected and a design has been chosen for the National World War II Memorial. We owe it to these extraordinary veterans to complete it without delay, so that as many as possible can see the nation's enduring monument to their service.

We also honor these veterans by ensuring they receive the hard-earned benefits they so eminently deserve. I applaud the healthcare reform of the Veterans' Administration. Health costs continue to rise and the budget has not kept pace. We have an ongoing responsibility to provide every veteran with adequate health care. This year's VA budget includes a 17 billion dollar increase, and we must continue to do all we can so that veterans receive their fair share in each year's budget.

In addition, as the number of older veterans continues to grow, the Veterans Administration must find a way to provide long-term care. The VA published an advisory report on this issue last year, but their recommendations were far from adequate. We need to continue this important work and develop more specific initiatives.

Another challenge we face is to deal with the increasing concern that today's generation is estranged from the military. Only 6 percent of people under the age of 21 and only 2 percent of those in the armed forces indicate they would consider enlisting. Even so, the VA has reported the average age of first time enlistees has dropped from more than 40 years of age to less than 18 years.

Allow me to paraphrase these words, and our obligation is to continue that inspiration into the next century, so that a new generation will continue to ask not what their country can do for them, but what they can do for their country.

The reduction in the population of veterans is being felt in Congress as well. The proportion of Republican members of the House and Senate who have served in the military has dropped from more than 75 percent in 1971 to less than 34 percent today.

Without the World War II and Korean generations, we will have to pay special attention to ensure that our society does not forget about our Vietnam, Gulf and Cold War veterans, or view their contributions with any less significance.

The veterans of these more recent wars did not come home to the fanfare that accompanied the Allied victory in World War II. But their sacrifices and contributions to our nation's defense and to the protection of our democracy are measured and its value. It is imperative that we continue to recognize the service of these veterans and pay tribute to their sacrifices.

To help ensure that our nation remembers all of its veterans, I supported a Resolution this year that expresses the Sense of the Congress that the third Monday in April be designated as "In Memory Day." That Day will recognize the Vietnam Veterans who have died as a result of illnesses and conditions associated with service in the Vietnam War.

We must honor the missing too. Today, over 80,000 American servicemen remain unaccounted for from all our nation's wars, including approximately 36,000 from the Vietnam and Korean Wars.

We must never forget our missing veterans. And we must never give up the effort to bring them home.

On behalf of the nation's disabled veterans, I strongly support the Disabled Veterans LIFE Memorial Foundation to establish a national memorial to honor all disabled veterans. Recently, Miss America 1999, Heather...
French of Kentucky, testified before the Senate on behalf of this memorial. During her Miss America pageant, she chose veterans as her cause, and she is emphasizing veterans issues throughout her reign. It is commitments and gesture of duty we will not lose to respond to crises around the globe that threaten our vital interests. We need cutting-edge weapon systems. But we also need dedicated service members to operate these systems.

As we do more to take care of the veterans of today, we must never lose sight of our obligation to take care of the veterans of tomorrow. This year Congress passed the broadest and most sweeping improvements in military pay and benefits in over twenty years. The new law calls for a well-deserved 4.8% pay raise for military personnel—the single largest pay raise for service men and women since 1982. It also expands authority to offer additional pay and other incentives to critical military specialties, and it improves retirement benefits for those who are serving now.

The military now faces one of the most difficult recruiting and retention challenges in many years. A major reason for the current problem is the strong U.S. economy. But the demands of far-flung military operations in recent years have also taken their toll on our troops. Today’s military is a smaller force, and yet it is also a more active force, and we have been slow to recognize the problems that are building.

In the past year alone, our service men and women conducted combat operations in Bosnia and Iraq. They are serving as peacekeepers in Bosnia, and as humanitarian support personnel in Central America. All of these demands are in addition to the day-to-day operations and exercises at home and overseas in which the military participates throughout the year.

Massachusetts is a major part of all these operations. This past year, Guard and Reserve units from Massachusetts were deployed in support of Operation Northern Watch in Iraq, Hurricane Mitch relief in Central America, and in Kosovo.

I especially commend all those who served during Operation Allied Force in Kosovo. This was the first war that America fought and won without a single casualty. Yet its victors came home to no parade marking V-K day, and no celebration of heroes. Yet their bravery and skill saved thousands of innocent lives, and they deserve our highest praise.

The success of their operations was an impressive tribute to the capability and dedication of our service men and women. Veterans, in particular, should be proud, because it is their legacy and example that have helped create the world’s finest armed forces.

I am very disappointed that a provision to improve and expand GI Bill benefits was not included in this year’s Defense Authorization Bill. It is a very successful and important program for the military and the nation. Over 2.3 million World War II veterans took advantage of the GI Bill upon returning from the war. It has been called the greatest investment in higher education that any society has ever made, and a brilliant and enduring commitment to the future.

In order for the GI Bill to continue its valuable work, it must evolve as our military forces evolve. Access to higher education is an increasingly important benefit for servicemen and women in today’s all-volunteer, professional military.

Improvements are needed in the GI Bill to enhance the program’s value and benefit to our troops, and to improve the bill’s effectiveness as a recruiting tool—and these improvements need to be enacted into law as soon as possible.

Today’s armed forces contain well-educated professionals who have chosen to serve their country in the military. We must treat them as the skilled professionals they are—or we will lose them.

Finally, when we think about our veterans, it is easy to recall the Eisenhowers, the Pattons, the MacArthurs, and the Powells. But we must never forget the countless silent heroes—the fathers, brothers, sisters, sons, and daughters who served when their country called.

Stephen Ambrose, in his book “Citizen Soldier,” talks about the “can-do” attitude of these quiet heroes that sets the American military apart. He describes the feeling when the American Sherman tanks were outgunned, and tells how skilled the Americans were in salvaging damaged tanks, patching them up, and sending them back into action.

Ambrose writes:

Indeed no army in the world had such a capability. Within two days of being put out of action by German shells, about half the dam-
gaged Shermans had been put back on the line. Kids who had been working at gas sta-
tions and body shops two years earlier had brought their mechanical skills to Nor-
mandy. Nearly all the work was done as if the crews were the States, rebuilding damaged cars and trucks.

These were not professional soldiers, but average Americans. They left their families and friends behind to fight be-
cause the nation called. It is the dedi-
cation and integrity of these silent her-
oes that has made America great, and
that made their Greatest Generation.

All of us in the Kennedy family have es-
pecially recognized the sacrifices of vet-
erans. The Kennedy family has been
honored and proud of our veterans, and I know that you, the American people, will never lose sight of what you are doing.

I am proud of our veterans, and I hope that you are proud of them. Today, on the eve of Veteran’s Day, I recall once again the words of President Kennedy. He visited the U.S. Naval Academy in August 1963, and spoke at a ceremony honoring the new class of midshipmen.

He said:

I can imagine a no more rewarding career. And any man who may be asked what he did to make his life worth while, I think can re-

cipe for a good and happy life: “I served in the United States Navy.”

My brother was a Navy man, but I’m sure that veterans of all the other services feel the same way. I know I am both grateful and proud of my fellow veterans, and I hope you are, too, and thank them for their service.

Mr. HATCH. Mr. President, on No-
vember 11, 1918, an armistice was signed to end the “War to end all wars.” The country rejoiced. Then, as the jubilation subsided, the reality of what had occurred slowly entered the consciousness of the nation and shouts of joy turned to tears of grief and thanksgiving. For many who had gone to fight would never return to their homes. And those who did come home would forever be scarred by the sights, sounds, and atrocities of war.

How could we, as a nation, show our gratitude to those who had given so much? The answer, insufficient though it is, was to set aside a day to honor all those who had served—heroes and patriots—and to give thanks for their sacrifices for freedom.

Tomorrow is the day we have set aside. Tomorrow is the day we should take special care to remember our veter-

Throughout our nation’s history there have been men and women willing to wear the uniform of the United States of America—willing to give their lives for freedom. Some people have asked “why?” The answer is, in the words of President Reagan, spoken at the 40th anniversary of D-Day: “It is because you all knew that some things are worth dying for. One’s country is worth dying for, and democracy is worth dying for, because the most deeply honorable form of government ever devised by man. All of you loved liberty. All of you were willing to fight tyranny, and you knew the people of your countries were behind you.

Our nation depends on our armed forces. We depend on highly motivated and highly skilled men and women who are willing to go into harm’s way at any time to defend American interests. And, when our troops leave the service, we should not forget them.

Although the nation may not officially recognize the sacrifices of veterans every November on Veterans Day or every May on Memorial Day, I know, personally, that in the hearts of the individual Americans, our veterans are remembered everyday. They are the husbands and wives, fathers and mothers, brothers and sisters, sons and daughters of us all. Almost one-third of the nation’s population—approxi-
mately 70 million persons—have served in the military: veterans, dependents of veterans, or survivors of deceased veterans. I and my family honor and remember my broth-
er Jess who died in World War II and

In the decades before the all-volunteer army and sophisticated high-tech weaponry, our military was made up of ordinary people. School teachers, ministers, truck drivers, bankers, and nurses, enlisted not just in the military, but in a noble enterprise. The story of America is the story of ordinary people doing extraordinary things and demonstrating uncommon endurance and valor.

Today, our armed forces are comprised of dedicated soldiers and sailors who have chosen to make the military a career or to contribute their skills for a time in an all-volunteer, professional fighting force. But, the fact that our nation's Army and Navy have become more reliant on technology does not negate the risks of warfare. Nor does it compensate for family separations, holidays spent thousands of miles from home, or meals eaten out of a carton.

For Veterans' Day in 1954, President Eisenhower called upon us to "solemnly remember the sacrifices of all those who fought so valiantly, on the seas, on foreign shores, to preserve our heritage of freedom, and let us reconstitute ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain."

On this Veterans Day, I echo the words of President Eisenhower. I salute all our veterans. I know that as long as there are Americans willing to stand up and fight for our values, we will remain a free and just nation.

A while ago, I was moved to write a song about those who have sacrificed so much for our country. It is entitled, "Morning Breaks at Arlington." It is an expression of the emotion and pride I feel whenever I think about the courage and sacrifice of our service men and women. Let me conclude with the lyrics:

Morning breaks on Arlington,
Warmed by rays of golden sun,
And all who pause in homage there
Feast a soft hush on the air.
Those who love their liberty
Bow the head and bend the knee,
And from their hearts they breathe a silent prayer.
"Thank God for those who rest in honor there."

Mr. President, I yield the floor.

Mr. DREW: Mr. President, I salute the veterans of this nation. On this Veterans Day, I want to pay tribute to the brave American soldiers who fought long and hard battles so that we may all have our freedom today. Veterans Day is about honoring and remembering these men and women who served our Nation, and it is for their families.

I am very fortunate to represent a state where military service is held in such high esteem. And if it should be, I can't tell you how proud I am of all West Virginia veterans. Whether they served in wartime or peace, all made great sacrifices. Indeed, West Virginia has one of the highest percentages of veterans of any state.

As I have often said, it was knowing and understanding West Virginians' deep patriotism and loyalty to their state and their country that first led me to seek a seat on the Senate Committee on Veterans' Affairs, where I am now the Ranking Member. I am proud to serve veterans there.

The very fabric of our nation is wound through our veterans. Iwo Jima, Stalingrad, and Hamburg; the Munich Agreement and turning back Communism; punishing the brutality of Hitler, Saddam Hussein, and Milosevic. Our nation is truly a beacon to the world for freedom and for opportunity because our men and women in uniform held that beacon aloft. And many of those men and women in uniforms were West Virginians.

It is not enough to take a day to commemorate these veterans, however. We owe them more than that. It is our responsibility to refuse to turn our backs on veterans who need health care, education benefits, and compensation for injuries incurred in service. It would be truly disgraceful for these veterans, who have served our country and our nation, to feel that they have been forgotten except for this one day per year. That is why I take my work with and for veterans so very seriously.

I have fought hard this year for veterans not only in West Virginia, but across the Nation. A critical need for veterans is long-term care. Our veteran population is aging rapidly and it is our responsibility to care for them. We owe them good long-term care now. I am dedicated to this need, and have been working hard to achieve this provision for all veterans.

And there are other battles to be fought as well. Although veterans who enroll with VA for their health care receive a comprehensive benefits package, there is no provision for comprehensive emergency care. This is a serious gap in coverage for veterans, which is unacceptable. Large and unexpected emergency medical care bills can present a significant financial burden to veterans.

Abraham Lincoln spoke at Gettysburg of dedication to "unfinished work . . . thus far so nobly advanced." Indeed, it is true that we have work to do. I will try to stand and benefit our veterans, I hope my Senate colleagues will join me in my continuing battles for veterans.

Mr. SESSIONS. Mr. President, great words of tribute and reverent appreciation are put on paper every year in anticipation of the arrival of November 11th. With a solemn heart I struggle to meet the challenge of delivering those words in a way that is both humble and befitting of America's heroes. I offer these words in honor of memory of every American who has answered the call to arms; for every American who has freely stepped forward under our Star Spangled Banner; and for every American who died in the name of freedom. These men and women are among America's greatest heros.

Our great nation has flourished and enjoys unprecedented prosperity to this day because of our veterans' willingness to be the first to give and the last to depart from the nation. For many this willingness meant sacrificing their lives so others might live free.

There are those among us who question whether or not our younger generations will ever have the opportunity to serve in the military to preserve our heritage of freedom, to fight tyranny and evil, and to have a proud tradition of triumph in the face of our enemies. I believe that America would always be ready to act. The footsteps left and the blood spilled by our soldiers, airmen, marines, sailors, and coast guardsmen around the world remain a testament to the indomitable American spirit, our collective faith in the power of freedom, and to the promise of a great future.

Over and over again, history has proven those who doubted America's resolve to be dead wrong. I am confident that our nation's future remains bright if we continue to exhibit the same steadfastness as our forefather's—never forsaking the gift of freedom so that many have given us.

Inspiration can be found in many ways. But, the greatest inspiration of all is the small group of Alabamians but provide one of the greatest inspirations of hope for America I can find.

Reading those citations made me think about how many people might have doubted their commitment back then? How many people came in contact with those heroes never realizing they were about to meet one of the greatest inspirations of hope for America I can find.

November 10, 1999

Mr. President, I take my work with and for veterans very seriously.
with a veteran. I hope you will thank them today for having answered the call to serve, and for setting the footprints for our future. They have indeed shown us the way into the 21st century.

Mr. L. CHAFFEE. Mr. President, one of my constituents, Mrs. Virginia Doris of Warwick, Rhode Island, recently sent me a letter and a poem she had written as a tribute to the veterans of World War II. I understand that he agreed to insert her poem in the Congressional Record in time for Veterans Day. I was honored when Mrs. Doris asked me to carry out that task in his place.

Before I do so, I would like to take a brief moment to alert my colleagues to Mrs. Doris's own contribution to the war effort.

During World War II, 23,000 Oerlikon-Gazda 20mm anti-aircraft guns were manufactured in my home state of Rhode Island. Originally produced in Switzerland, these guns were critical to the Allied campaign—a nearly every ship in the fleet carried them by the end of the war.

And Virginia Doris was right in the thick of this arms production effort, working long hours in the drafting room of the Oerlikon-Gazda command center, located in downtown Providence. In a 1990 interview with the Providence Journal, Mrs. Doris described her years at the center “as this last marvel period in my life.” Equipped with a title she refers to as her “turbo per- sona,” Mrs. Doris was a valued and trusted member of the Oerlikon-Gazda team.

I ask unanimous consent, Mrs. Doris’s poem, “Ode to Comrades-In-Arms: World War II,” be printed in the RECORD.

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

ODE TO COMRADES-IN-ARMS: WORLD WAR II

O, Heavenly Father, gaze upon the tombs Of Patriots, foster their eternal plumes Nourished in they omnipoint song of hallow, Shed gentle tears to moist their marrow.

Enfolded in thine unchanging flame Beheld the farflung earthly frame, Its pulsing marbles sculpted strong, With ebbing currents and silvery thong.

Each graven with the threaded embrace Of Patriots, foster their eternal plumes O, Heavenly Father, mark their burden of die, Their lives so young, war’s lingering ebon fray,

Delivers them a shrouded throne, and solemn

Can we not dream that those we loved are here? Beckon them all in memory, as the vine Whose tangled stems have long untwined The crystal pillars, and clasp around The sunken urn, whose dolorous sounds With mournful message to our brothers, reign, Tried and true, and close the broken line.

OLE MISS HOSTING FIRING LINE

Mr. LOTT. Mr. President, Senator COCHRAN and I are pleased to announce that Ole Miss, which we fondly refer to as Ole Miss, will be hosting the final broadcast of the Emmy-winning PBS program “Firing Line.” Senator COCHRAN and I want to join the University of Mississippi in congratulating all those affiliated with “Firing Line,” including its host, Mr. William F. Buckley, Jr., and its producer, Mr. Warren Steibel, for their outstanding accomplishments during 34 years of television. Since 1966, Mr. Buckley and Mr. Steibel have given the American public an opportunity to make informed decisions on the important topics of the day by bringing all angles of an issue to the surface through their lively debates. No public affairs program in history has run longer with the same host.

Firing Line has brought a wide range of topics to the forefront since joining the PBS family on May 26, 1971, including “Separation of Church and State,” “Socialism Dead,” “Health Risks in a Nuclear Environment,” and its final topic, “The Government Should Not Impose a Tax on Electronic Commerce.” These and other topics have been debated by Presidents George Bush, Ronald Reagan, Jimmy Carter, Gerald Ford, and Richard Nixon; and prominent figures such as Margaret Thatcher, Muhammad Ali, Henry Kissinger, and Bob Dole.

Mr. President, the past decade has brought major changes to the end of the millennium. It is a tribute to programs of its kind that “Firing Line” leaves the airways at this historic time. The guests, topics, and fervor with which the issues have been approached throughout the years on the program define the culture of the day.

All attitudes and opinions have been expressed and analyzed, reflecting our society’s nature to embrace conflict and discourse in the name of answers and truth. William F. Buckley and Warren Steibel created an educational art form that did as much teaching as any other television program in memory.

This final telecast also marks the fourth time that the University of Mississippi has hosted the “Firing Line” program. This relationship began with “Firing Line’s” first visit to Oxford in 1989, and continued with its return in 1992, 1997, and now in 1999. Firing Line is in Oxford well over the years because of their commitment to furthering knowledge and challenging individuals to constantly expand their thinking. The University of Mississippi’s growing impact across the world in the realms of politics, economics, social issues, technology and leadership make it a fitting backdrop for the closure of “Firing Line’s” award-winning run.

TATANKA HOTSHOT CREW

Mr. DASCHLE. Mr. President, it gives me great pleasure today to recognize the members of the Tatanka Hotshot Crew of the Black Hills National Forest in South Dakota. This fall marks the end of the first fire season that this crew has been operational, and I am delighted to say that it has proven to be an outstanding success.

Each year serious wildfires threaten national forests across the United States, burning thousands of acres of woodlands and endangering private property. Our line of defense against these fires is the United States Forest Service, whose firefighters risk their lives in arduous, often isolated conditions to bring wildfires under control.

The best of these teams are known as Hotshot crews—elite firefighters who are sent to the worst fires, to do the most difficult, dangerous work necessary to protect our forests and the homes of nearby residents. All around the country, these teams have been recognized for their skill and bravery.

Last year, we created the first of these elite teams ever to be based in the Black Hills National Forest. It is called the Tatanka Crew after the Lakota word for the bison that used to roam the Great Plains by the tens of thousands. There are 23 members of this team, virtually all of whom are Native American, from diverse places, including South Dakota towns like Custer and Aberdeen. Some joined the Tatanka crew from other hotshot teams or elite smokejumping units. Others are veterans of the Gulf War. Still others are young individuals working their way through college. I am proud to say that after a year of intense training and working together, the Tatanka team quickly has become one of the most highly-regarded firefighting teams in the nation.

In addition to work in the Black Hills, the Tatanka crew spent 71 days away on wildland fire assignments, accumulating 1,550 hours of work in Colorado, Wyoming, Montana and California. In addition to conducting fire-burnout operations, built miles of fireline, constructed hesiopots and medivac sites, and conducted large tree-falling operations in steep, hazardous terrain. Other noteworthy accomplishments included backpacking 6,500 pounds of sandbags up Mount Rushmore to prepare for the July 4th fire-works display, tending the commemo-rative cresses at the 1994 South Canyon fire fatality sites in Colorado, and working in conjunction with the Tahoe Hotshots to rescue a pack horse which had fallen off a mountain trail in California.
Over the course of the summer, the Tatanka crew earned its reputation as a team that could be depended upon to get its job done quickly and effectively. Based upon its outstanding performance ratings and the respect it earned from other highly regarded hot-shot crews, Forest Service officials expect the team to attain National Type 1 status—the highest rating a firefighting team can receive—before the 2000 fire season, a full year ahead of schedule.

Mr. President, I am very proud of the accomplishments of this crew. Forest fires are dangerous and unpredictable, and fighting them is one of the most difficult, physically-exhausting jobs of which I know. Firefighters spend days deep in forests and far from possible help, digging fire lines and cutting trees to keep fires from spreading. In just one year, the Tatanka team has met these challenges head-on, and shown that it is equal to the toughest challenge. Recognition has to date been limited, but I want to offer my congratulations to all of those who served on the team. I am sure that they will have an outstanding future.

OPPOSITION OF EFFORTS TO BLOCK THE DEPARTMENT OF JUSTICE RECENT ENFORCEMENT ACTION

Mr. LIEBERMAN. Mr. President, I rise today to speak briefly about an issue which has surfaced recently in the national press, and now arises with regard to the remaining appropriations bills before us. On November 3rd, the Justice Department filed several lawsuits on behalf of EPA against electric utility companies in the Midwest and South. The lawsuit charged that 17 power plants illegally polluted the air by failing to install pollution control equipment when they were making major modifications to their units. This action is one of the largest enforcement investigations in EPA's history, and seeks to control pollution which contributes to degraded air quality throughout the Northeast. I have recently learned that some of the defendants may be seeking relief from this enforcement action by adding a rider to one of the remaining appropriations bills. I am speaking with my colleagues here today in strong opposition to this rider, and I seek your support for pending violations of federal law through a rider without any congressional hearing, debate, or voting record, is utterly inappropriate. It undermines the democratic process which is constitutionally guaranteed to American citizens, and to the states which have similar cases pending.

The alleged violations are extremely serious. Congress has long recognized the need to control transported air pollution. Provisions to study and address the issue have been included by major amendments to the Clean Air Act. Yet the problem still remains and the statistics are staggering. They demonstrate just how much older, Midwest powerplants contribute to air pollution in the Northeast. For example, one utility in Michigan emits almost 6 times more nitrogen oxides than all the utilities in the entire state of Connecticut. Ohio a power plant produces nearly 9,000 tons of sulfur dioxide, which directly contributes to acid rain. One single plant in Ohio produces as much nitrogen oxide as all of the plants in the state of New York.

Mr. LIEBERMAN. Yes. With this rider, Congress would be substituting its own opinion for the factual and legal analysis by the court. There will be no opportunity for expert opinions to be heard. In fact, I understand there may even be discussions about trying to add rider language which would allow modifications which would result in significant increases in emissions, by basing them on a unit's potential to emit pollution. This is a significant departure from the current law, which requires that controls be included when plants are making modifications that cause emissions to increase. For example, a plant's potential to emit pollution may be at 10 tons, while it actually emits 7. The test has been that if modifications are made that raise emissions above the 7 tons, pollution controls are required to be instituted. Since the potential emissions are often much greater than actual emissions, actual emissions have been the threshold to trigger public health protections. A rider that would seek to allow modifications to go forward would give utilities a license to continue to pollute our air while the enforcement action is pending. In its worst form, it would also "pre-judge" the court's determination on these matters. These are major reasons why I oppose using a rider to address this issue. It makes no sense for Congress to make a statement on this complex issue with no opportunity for public debate.

Mr. KERRY. I understand that some suggest that it would be impossible to achieve new pollution standards because of technological limitations. I would like to address that point. States in the Northeast have already taken steps to reduce pollution, in compliance with Clean Air Act requirements, including instituting major controls on these older power plants. Northeast Utilities has spent $40 million in the last 8 years to reduce sulfur emissions. In a November 5th letter to Administrator Browner, Northeast Utilities wrote that "in our experience the Merrimack Station selective catalytic reduction technology is effective in removing NOX, can be installed fairly quickly, and the technology increases the availability of the generating unit." Other companies, including Pacific Gas & Electric and Southern Company have made similar
investments at plants in Massachusetts. While these are only a few examples, the experience of these companies is echoed by others. Real world experience bears out the fact that solutions are available and are cost effective. It is also important to note that the Tennessee Valley Authority, which is the subject of the enforcement action, recently announced plans to implement state-of-the-art ozone control equipment.

The solutions are out there, and as utilities in New England have demonstrated, when there is a will there is a way.

I would like to address what is, in my opinion, the fundamental problem with this rider. These power companies and our Department of Justice have a legal dispute, and that dispute should be settled through the legal process. I understand that some of the defendant companies, and some in the Senate, may feel that the Environmental Protection Agency and the Department of Justice are being overzealous in pursuing this enforcement action or that there are political goals at play here. Respectfully and strongly disagree, and I urge my colleagues to disregard such rhetoric. It has been my experience that as a member of Congress, 100 people each year die in Massachusetts from air pollution from power plants, automobiles and other sources. And, in particular, emissions from coal-fired plants, the dirtiest of which cause high levels of ozone, which increases the incidence of respiratory disease and premature aging of the lungs. Acid deposition from sulfur can severely degrade lakes and forests.

Throughout my career, I have been a strong proponent of allowing the Courts to do their work without interference of politics—indeed, that was the intent of the Framers of the Constitution. Madison and Hamilton eloquently explained the importance of balance of powers in the Federalist papers. The Framers of the Constitution understood how important this set of checks and balances is. The Constitution assumes self-interest. It carefully balances the power by which one interest would interfere with the efforts of a number of States to seek relief from dangerous air pollution they receive from a number of large coal-burning facilities which may have violated the Clean Air Act. The Tennessee Valley Authority, which is also interesting to note, has abused loopholes in federal law to avoid emission controls.

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The States must be allowed to protect their rights. I should think that any Member of this body ought to defer to the courts where it is clear that this issue is now being placed.

Mr. LEAHY. Mr. President, I want to join my colleagues in voicing my strong objection to a rider that I understand may be attached to one of the remaining Appropriations bills. This rider would block all or part of an ongoing federal environmental enforcement action. If what I hear is true, I am troubled on several levels. First, I think that it would set a very dangerous precedent for Congress to attempt to squash Federal enforcement actions of any kind. The procedures for testing and appealing the appropriateness and reach of enforcement actions through the court system and under the Administrative Procedures Act are well established. These procedures do not include a back door, last minute “Hail Mary pass” by Congress using a rider to an appropriations bill as the vehicle. In this instance, someone does not like an environmental enforcement action. Congress, will we be allowing something to appropriations bill to stop antitrust enforcement actions? How about price fixing cases? Where would this type of meddling cease?

What we may be seeing with the filing by EPA and DOJ is an enforcement action that has hit the bull’s eye dead on. And now utilities who may have crossed the line are pulling out all the stops to thwart the action.

Let’s not kid ourselves about what is at stake. Many of us have drafted and introduced legislative proposals to address power plant pollution. We have turned up the heat, and the industry has taken notice. Further, the debate over electric utility restructuring is starting in the House of Representatives and the Senate. While there are substantial economic benefits possible under restructuring, Congress should also address environmental consequences of deregulation. In order to alert the Senate leadership of this important issue that has so far been ignored in the restructuring debate, I have asked my colleagues to join me in sending a letter to the Senate leadership requesting that the Senate include a provision to eliminate the grandfather loophole for older power plants.

My colleagues from Connecticut and New York certainly know the history of the Clean Air Act more than any of us. Senator LIEBERMAN, how do you see this enforcement action affecting the United States? What are the Clean Air Act loopholes?

Mr. LIEBERMAN. I thank my colleagues from Vermont. As you have argued in the past, the 1970 Clean Air Act Amendments assumed that one of the major sources of these pollutants—older power plants—would be retired and replaced with cleaner burning plants. Unfortunately, this has not happened. The average power plant in the United States uses technology developed in the 1950’s or before. The EPA-DJO enforcement action is now alleging that many of these generating units have been modified and are no longer entitled to their grandfathered status.

Mr. LEAHY. And, I think we are making a fair statement in saying that these grandfathered power plants will enjoy an important competitive advantage under restructuring because they will be able to emit their wastes and pollutants atQualifier standards as newer plants. Many of these grandfathered plants are currently not running at a high capacity because demand for their power production is limited to the size of their local distribution area. Under restructuring, the entire nation becomes the market for power and production at these grandfathered plants and their emissions will increase. Deregulation of all utilities will drive a national race to capture market share and profit through producing the cheapest power.

Some or all of the rider may apply to plants operated by the Tennessee Valley Authority (TVA). What do we know about TVA’s fossil fuel power plants in Alabama, Kentucky, and Tennessee, etc. Eighty-three of the plants operated by the Tennessee Valley Authority emit 12.5 million tons of SO2 per year. Fifty-eight of these 123 units are grandfathered, with the average start-up year being 1957, 13 years before the Clean Air Act was passed. The average price at which the TVA plants sell power is 6.27 cents in Alabama, 5.83 cents in Kentucky, and 6.74 cents in Alabama. The average price nationally in 1997 was 8.43 cents. TVA sells some of the cheapest electricity in part, because it is operating these old, subsidized grandfathered plants. In a deregulated national market, will TVA be competitive? The answer is yes.

TVA-wide in 1997 the 59 units emitted 98.5 million tons of CO2, nearly 5% of the U.S. total for power plants. If the 123 TVA units were to join the market in 1997, they would 61 percent of the national emissions. The TVA plants emit nearly 808,500 tons of acid rain producing SO2.

Mr. KYL. Mr. President, as we work through the final days of the legislation session, we are apt to become mired in the details of our work. We can see the sight of an opportunity we have, as legislators, to represent our fellow citizens and to conduct the business of a democratic society in the Nation’s Capital.

In this spirit, I wish to draw the Senate’s attention to a very special anniversary one that I hope can inspire us to bring our efforts renewed appreciation for our blessings—and our duties—as legislators in the greatest democratic nation on earth.

Ten years ago yesterday, the starkest symbol of human bondage in this century—the Berlin Wall—shook, cracked, and then collapsed. To be sure, it took time for all of it to be physically dismantled. Sections of it still stand, left as symbols all at once of man’s capacity for evil and his insatiable drive to be free. But in one magnificent moment 10 years ago, without a shot being fired, people who had only known cold war captivity crossed the line and became free.

They were helped across by many hands: by the American people who
Mr. Reagan's intellect, the fact was that he

subscribed wholeheartedly to one major truth that many of his intellectually sophis-
ticated critics either never knew or had for-
gotten: Societies that encourage freedom and creativity, while soci-
eties that suppress liberty tend to stagnate. This was the central truth around which
all my work as President revolved, and that remains true today.

Underlying Mr. Reagan's approach to the

Gorbachev was his profound (his critics

would say "childlike" or "simplistic") faith

that change is possible through moral and
cultural means. This was the crucial insight that he ar-
ticulated with passion and eloquence and

pursued with iron resolve. And this was the

basis of his Soviet policy.

Mr. Reagan's approach to foreign policy was

unprecedented. The traditional U.S.

strategy was to seek to contain Soviet power

hope and that, at some unspecified point in

the future, containment would convince the

Soviet leaders to lose their faith

and eventually bring them down. Mr.

Reagan's approach to foreign policy

was unorthodox. The United States was now

the leader of freedom, not a country

that sought not merely to contain the Soviets but

to draw them down to their knees.

But the Cold War is over. Freedom

still struggle for peace and freedom.

where that people around the globe

around the island of Cuba, and every-

NATIONAL MISSILE DEFENSE

REPORT

Mr. COCHRAN. Mr. President, a re-

port on the National Missile Defense

program has been completed and will

be released shortly by a panel of ex-

erts which is chaired by retired Air

General Larry Welch. The direct-

or of the Defense Department's Bal-

listic Missile Defense Organization

quested this report which examines the

National Missile Defense program and

makes several recommendations for

improvement.

Many will remember that General

Welch and his panel issued a previous

report last year which examined as-

pects of both the National Missle De-

fense program and several Theater Mis-

sile Defense programs.

Generally speaking, the newest

report is a helpful critique of the National Missile Defense Program. Given the

importance of this program, additional knowledge of its inherent

risks will help BMD to structure and

run the best program possible.

In particular, I support the report's

endorsement of the BMD program

manager, as well as the Lead Systems

Integrator, increased authority in run-

ning this program.

The INTERSTATE TRANSPOR-

TATION OF DANGEROUS CRIMI-

ALS ACT

Mr. LEAHY. Mr. President, the re-

cent escape of convicted child mur-

der Kyle Bell from a private prison

transport bus should serve as a wake-

up call, to the Congress and to the

public, that the current system is not

attentive, or poorly trained.

Privatization of prisons and prisoner

transportation services may be cost ef-

ficient, but public safety must come

first. The Interstate Transportation of

Dangerous Criminals Act requires the

Attorney General to set minimum standards for private prison transport

companies, including standards on em-

ployee training and restrictions on the

number of hours that employees can be

on duty during a given time period. A

violation is punishable by a $10,000 fine,

plus restitution for the cost of recap-
turing any violent prisoner who es-

capes as the result of such violation.

This should create a healthy incentive

for companies to adhere to the regu-
lations and operate responsibly.

I commend Senator DORGAN for his

leadership on this legislation and urge

its speedy passage.
The report's emphasis on additional ground testing and purchasing additional hardware—such as a second launcher for the Kwajalein test site—makes good sense.

Any program subjected to scrutiny on the level of the Welch Panel will face some criticism about particular aspects of how the program is being conducted. But one key phrase in the report is worth keeping in mind, and I quote: "Given the set of challenges and the risk-assessment process, the JPO [BMDO's NMD Joint Program Office] and LSI [Boeing, the Lead System Integrator] have formulated a sensible, phased, incremental approach to the development and deployment decision—while managing the risk." Every DoD program has some degree of risk; the risk in each program, NMD included, can be mitigated by additional time and money. However, the NMD program is not being developed in a vacuum, a point clearly made by Northrop's test of the prestage Taepo Dong I ICBM in August of 1998. We don't have the luxury of time.

Because of the proliferation threat, our choice is simple: We can accept additional program risk, or we can leave the U.S. vulnerable to ever-escalating threats of coercion by placing a premium on wringing risk from the NMD program.

The emphasis must be on protecting America and American interests. The continued reliance on the vulnerability of the United States is unacceptable, which is why many of the Welch Report's recommendations should be implemented as quickly as possible.

Because of the threat we face no choice but to accept a high-risk program. We ought to accept as much risk as we can stand, because the consequences of not being prepared for the threat are so high. "High" risk is not synonymous with "failure," as demonstrated by the recent successful intercept conducted by this program.

Decision points in the National Missile Defense program should not be adjusted because of a high level of risk in the program, but only if the level of risk becomes unacceptably high. To date no senior Defense Department official has told me that the level of risk in the NMD program is unacceptable.

Much of this report focuses on a lack of hardware to test and insufficient simulation. That is the reason Congress added $1 billion for missile defense last year.

The Welch Report also calls for flight tests against more varied targets. After the recent successful NMD flight test, there was an unfortunate rush to judgment by some who wanted to distort this program as a fraud for not attempting the most complex intercept test immediately. These critics were obviously unaware of the fact that it was the Welch Panel, during its investigation, which recommended to BMDO that the recent flight test be simplified. I support the Welch Report's suggestion for realistic testing, and hope that everyone will keep in mind the importance of testing the basics first, and then proceeding to more complex tests.

There are, of course, some problems with testing against more realistic targets that go with the NMD program. According to the Ballistic Missile Defense Organization, BMDO believes it is—and I quote from a note BMDO sent to my staff—"constrained by START treaty limitations"—in testing against more realistic targets.

This surely must be a misunderstanding within the Defense Department that will be resolved quickly.

I want to commend the members of the panel who produced the Welch Report. I hope that some of their concerns have been ameliorated by the recent NMD intercept, which occurred too late to be included in their report.

PATENT REFORM AND INVENTOR PROTECTION LEGISLATION

Mr. LIEBERMAN. Mr. President, I rise to express my support for S. 1798, the American Inventors Protection Act. Yesterday I became a co-sponsor of the patents reform legislation, which was recently reported out of the Senate Judiciary Committee. It is my understanding that the provisions contained in that legislation are being folded into a larger bill, which also addresses satellite television and other matters. Although I urge passage of this larger bill, in my comments today I will speak to the provisions dealing with patent reform and inventor protection, which I strongly believe will provide vital new protections both to businesses and to individual inventors.

In particular, I am pleased to see an entire title dedicated to regulating invention promoters, many of whom are little more than con artists. In 1995 I introduced the "Inventor Protection Act" of 1995, which was the first bill to target the unscrupulous inventors trying to sell inventions to inventors' ideas and dreams. Several of my bill's provisions now appear in the House and Senate legislation, and I am glad to see that the work we did in the 104th Congress, combined with the efforts of others since, should finally result in the passage of long needed protections against invention promotion scams.

The American Inventors Protection Act is a well-rounded bill. It reduces patent fees and authorizes the Commissioner of the Patent and Trademark Office (PTO) to report to Congress on alternative fee structures. The goal here, as with other titles of the legislation, is to make our patent system as accessible as possible to all. Another reform would save money for parties to a patent dispute. It allows third parties the option of expanded inter partes reexamination procedures; these new procedures before the PTO will decrease the amount of litigation in federal district court.

The "First Inventor Defense" is a vital new provision for businesses and other inventors caught unaware by recent court decisions allowing business methods to be patented. It is simply unfair that an innovator of a particular business method should suddenly have to pay royalties for its own invention, just because of an unforeseeable change in the law. I am urging that any kind of method, regardless of its technological character, would be included within the scope of this definition, provided it is used in some manner by a company or other entity in the conduct of its business.

Two other provisions provide greater predictability and fairness for inventors. One title guarantees a minimum patent term of 17 years by extending patent term in cases of unusual delay. Another allows for domestic publication of patent applications subject to foreign publication. I support the changes made to this provision since the last Congress, changes which should satisfy the concerns of independent inventors that their ideas might be copied before their patents are granted.

Finally, I applaud the new regulations and remedies which will provide protection with enhanced protections against invention promotion scams. Each year thousands of inventors lose tens of millions of dollars to deceptive invention marketing companies. In 1994, as then-Chairman of the Subcommittee on Oversight and Government Reform, I held a hearing on the problems presented by the invention marketing industry. Witness after witness testified how dozens of companies, under broad claims of helping inventors, had actually set up schemes in which inventors spend thousands for services to market their invention—a service that companies regularly fail to provide.

The legislation I introduced in 1995 used a multi-faceted approach to separate the legitimate companies from the fraudulent and guarantee real protection for America's inventors. I urge my colleagues to support this legislation especially devoted to invention marketing companies. Both bills provide inventors with enhanced protections against invention promotion scams by creating a private right of action for inventors harmed by deceptive fraudulent practices, by requiring invention promoters to disclose certain information in writing prior to entering into a contract for invention promotion services, and by creating a publicly available log of complaints received by the PTO involving invention promoters.

The provisions contained in the American Inventors Protection Act represent our best hope for passage of a bill combining with my colleagues to support their passage to ensure that inventors as well as their ideas are adequately protected.
THE CONVEYANCE OF CERTAIN LANDS TO PARK COUNTY, WYOMING

Mr. ENZI. Mr. President, I rise in support of legislation that I and my colleague, Senator CRAIG THOMAS, introduced on Tuesday, November 9, 1999, that would authorize the sale of certain federal lands near Cody, Wyoming to Park County, Wyoming for future use as an industrial park.

By purchasing this property, and zoning it as an industrial park, Park County will be able to provide, protect, and recognize an area that is well suited for industrial development in a manner consistent with uses on surrounding properties, and do so in a way that does not burden other areas in the community whose uses are more residential or commercial in nature.

The property in question consists of approximately 190 acres of federal land just north of the Cody City limits. Part of this land is currently leased to a number of light industrial corporations including a gypsum wall board manufacturer, a meat packing facility, a trucking company, an oil company, a concrete company, and a lumber company. The property is also currently used as a utility corridor and is encumbered by a natural gas pipeline, several electricity and gas pipeline rights of way, and a railroad easement held by the Chicago Burlington Quincy Railroad.

This proposal offers a needed shot in the arm for an economy that has not been able to attract a diversity of new jobs based on a shortage of available industrial property. This shortage was created by a strong federal presence—82 percent of the land in Park County is owned by the Federal Government, with 52 percent of that land designated and managed as Wilderness. This high concentration of federal land drives up the price on available private land making industrial development very difficult.

In conclusion Mr. President, I hope my colleagues can join with me in support of this legislation and together we my colleagues can join with me in supporting it.

INCREASING THE MINIMUM WAGE

Mr. SANTORUM. Mr. President, I would like to take a moment to discuss the amendment offered by Senator DOMENICI, Senator ABRAHAM, and myself to raise the minimum wage. I co-sponsored this proposal because I believe it represents a fair, sensible compromise.

In raising the minimum wage, it is imperative that we do not hurt the very people we are trying to help. Increasing the minimum wage always carries the risk of reducing job growth, cutting off opportunities for entry level workers, or displacing current workers. These risks are a real concern to me. In my view, any increase in the minimum wage must be accompanied by measures that will negate possible unintended negative effects on workers and businesses.

I believe the Domenici amendment offers a reasonable way to help workers and businesses by coupling the wage increase with tax relief that will help small businesses offset the additional costs. I would like to highlight a few of the ways this amendment creates a win-win situation for workers and small businesses. The amendment provides a one dollar increase in the minimum wage, which will be phased in incrementally over the next three years. Currently, the federal minimum wage is $5.15 per hour. Our amendment raises the minimum wage to $5.50 per hour in 2000, to $5.85 per hour in 2001, and to $6.15 per hour in 2002. It also includes reforms to expand pension coverage, particularly for employees of small businesses. These provisions enhance fairness for women, increase portability for plan participants, strengthen pension security and enforcement, and streamline regulatory requirements. Likewise, our proposal permanently extends the Work Opportunity Tax Credit, which gives employers an incentive to hire people receiving public assistance. This program helps people who have fallen on hard times to move back into the workplace. A section of our proposal that I am particularly proud of allows self-employed individuals to deduct 100 percent of their health insurance costs as early as next year. Under current law, hard working men and women must wait until 2003 before they can fully deduct their health insurance costs. This measure puts small business owners, farmers, and other hard working men and women struggling to get their businesses off the ground on a level playing field with large corporations, who already enjoy full deductions for healthcare. I have fought for this parity throughout my tenure in Congress, and I thank Senator DOMENICI for including it in this amendment.

Mr. President, our amendment is a compromise package. It is a good faith attempt to help low-income workers without penalizing their employers or causing unintended job displacement. We believe the tax relief and pension reforms in this bill will help small businesses and mitigate possible adverse effects of raising the minimum wage.

Once again, I thank Senator DOMENICI for his hard work on this amendment.

THE MANUFACTURED HOUSING IMPROVEMENT ACT

Mr. JOHNSON. Mr. President, I am pleased to offer my support and cosponsorship to S. 1452, the Manufactured Housing Improvement Act. Rural America, and my state of South Dakota in particular, is in the midst of an affordable housing crunch. In South Dakota, approximately four of ten new single family homes are manufactured homes, and with an average cost of around $42,000, manufactured homes enable many individuals, young families, and retired South Dakotans to enjoy the benefits of homeownership.

The increase in the number of manufactured homes, the Federal Manufactured Home Construction and Safety Standards Act has not been updated since its creation in 1974. Over the past twenty five years, manufactured homes have evolved from being predominately mobile trailers to permanent structures that contain the same amenities found in site-built homes. The inability of regulations to keep pace with changing technology and the nature of manufactured housing frustrates manufactured housing builders and consumers alike.

S. 1452 establishes a consensus committee that would submit recommendations to the Secretary of HUD for revising the manufactured housing construction and safety standards. In addition, the bill authorizes the Secretary of HUD to use industry label fees to administer the consensus committee and update the regulations. I applaud this unique provision that ensures taxpayers not to.

There is no question that construction codes for manufactured homes are woefully outdated and in need of revision. For example, the manufactured housing industry is running six years behind the most current electrical codes. Changes in the height of ceilings in manufactured homes since 1974 have also outpaced codes regulating the location of smoke detectors in the home. As a result, some smoke detectors in manufactured homes are several feet from the top of vaulted ceilings. Another trend in the industry is for more manufactured homes to be placed on private lots with basements. Unfortunately, out-of-date HUD regulations require water heaters to be placed on the main floor of a manufactured home, thereby prohibiting the more logical placement of water heaters in the basement and near a floor drain.

By updating construction safety regulations, this bill will benefit many South Dakotans and others who own manufactured homes. The AARP has raised valid concerns with portions of this legislation that I am hopeful can be addressed. I am confident that the concerns AARP has with the composition of the consensus committee can be worked out to ensure proper representation from consumers, industry experts, manufacturers, public officials, and other interested parties. I also commend AARP for raising the issue of the wear part, and as a thank you for this legislation, I look forward to working with my colleagues, the manufactured housing industry, and AARP to ensure consumer access to warranties.
Another important issue that needs to be addressed in this discussion concerns installation standards that 33 states, including South Dakota, currently have. Differences in geography, soil composition, and climate make a uniform set of installation standards difficult to implement. However, I would like to see consumers in those states that currently do not have installation standards for manufactured homes receive the same level of assurance South Dakotans have that their homes are being installed correctly.

I would like to thank Senator Shelby for introducing S. 1452 as well as Senators Allard and Kerry for holding hearings on the legislation in October. I am hopeful that with the help of the interested parties, we can make this important bill even better. I look forward to a continued dialogue on this issue and for the Senate to take up this issue early in the new year.

TRIBUTE TO DAISY GASTON BATES OF ARKANSAS

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to a great American and the honored daughter of Arkansas. Daisy Gaston Bates was an author, a newspaper publisher, a public servant, a community leader. And some would say most importantly, a civil rights activist. Mrs. Bates passed away last Thursday and we in the great state of Arkansas are celebrating the life of one of our greatest citizens.

Mrs. Bates believed in justice and equality for all of us. No doubt it was that love of freedom and equality that compelled her crusade in 1957 for the rights of nine African-American children to attend Little Rock's all-white Central High School. Daisy Bates played a central role, as Arkansas president of the National Association of Colored People, in the litigation that led to desegregation on the school steps. This was a defining moment in the history of the civil rights movement.

According to her own accounts and those of the Little Rock Nine, the students would gather each night at the Bates' home to receive guidance and strength. It was through the encouragement of Daisy Bates and her husband that these young men and women were able to face the vicious and hateful taunts of those so passionately opposed to their attendance at Central High.

Mrs. Bates and her husband, L.C., also published a newspaper, the Arkansas State Press, which courageously published accounts of police brutality against African-Americans in the 1940's and took a stance for civil rights. Eventually, Central High was integrated and Daisy and her husband were forced to close their newspaper because of the threats to standing. After the Supreme Court's 1954 decision, Daisy and her husband were threatened with lawsuits and the paper suffered financial hardships from which it could not recover. She and L.C. were hanged in effigy by segregationists. But Daisy Bates persevered. She did all this, withstood these challenges, because she loved children and she loved her country. She had an internal fire, a will to live. Currently, the Bureau of Land Management (BLM) allows the county to use the land for a park at no cost to the county. Because BLM does not plan to sell the land or otherwise generate receipts from it, CBO estimates that implementing S. 977 would result in no significant costs to the federal government. The bill would not affect direct spending or receipts, so pay-as-you-go procedures would not apply.

S. 977 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Douglas County might incur some costs as a result of the bill's enactment, but any such costs would be voluntary. The county also would benefit, however, because it would receive land at a negligible cost. The bill would have no significant impact on the budgets of other state, local, or tribal governments.

On October 20, 1999, CBO transmitted a cost estimate for H.R. 1725, the Miwaleta Park Expansion Act, as ordered reported by the House Committee on Resources on October 20, 1999. The two bills are very similar and the cost estimates are identical. The CBO staff contacts are Mark Grabowicz (for federal costs), who can be reached at 226-2860, and Marjorie Miller (for the impact on state and local governments), who can be reached at 225-3220.

Sincerely,

DAISY GASTON BATES

ENCLOSURE.

S. 977—Miwaleta Park Expansion Act

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 2, 1999.

Hon. Frank H. Murkowski,
Chairman, Committee on Energy and Natural Resources,
Washington, DC.

Dear Mr. Chair:
The Congressional Budget Office has prepared the enclosed cost estimate for S. 977, the Miwaleta Park Expansion Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for federal costs), who can be reached at 226-2860, and Marjorie Miller (for the impact on state and local governments), who can be reached at 225-3220.

Sincerely,

Dan L. Crippen.

Nonvoting Trustee.

DEPARTMENT OF THE ARMY

ESTABLISHMENT OF THE UNITED STATES JOINT FORCES COMMAND

Mr. LIEBERMAN. Mr. President, I rise today to commend the Secretary of Defense, Bill Cohen, the Chairman of the Joint Chiefs of Staff, General Hugh Shelton, the Commander in Chief of the Joint Forces Command Admiral Hal Gehman, and the Army Chief of Staff, General Eric Shinseki, for their commitment to transforming our current military force to one which will assure our military superiority well into the twenty-first century.

Secretary Cohen and General Shelton have taken strong and direct action to establish transformation as the guiding policy for the Department of Defense.

Mr. MURKOWSKI. Mr. President, on November 2, 1999, I filed Report 206 to accompany S. 977, that had been ordered favorably reported on October 20, 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. 977 will result in no significant costs to the federal government. I ask unanimous consent that a copy of the CBO estimate be printed in the Record.

Sincerely,

Douglas, Oregon. The bill stipulates that the county must use this land for recreation purposes. Currently, the Bureau of Land Management (BLM) allows the county to use the land for a park at no cost to the county. Because BLM does not plan to sell the land or otherwise generate receipts from it, CBO estimates that implementing S. 977 would result in no significant costs to the federal government. The bill would not affect direct spending or receipts, so pay-as-you-go procedures would not apply.

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Secretary Cohen and General Shelton have taken strong and direct action to establish transformation as the guiding policy for the Department of Defense.
Their leadership responds to what are now broadly accepted conclusions about the security environment we will face and the challenges and opportunities resulting from the Revolution in Military Affairs. Many, both inside and outside the Pentagon, have concluded that these changes are of such magnitude that they require that our military in the twenty-first century be fundamentally different than today’s military. This view was compellingly articulated by the National Defense Panel, which was created by this body. And it was given the force of policy by Secretary Cohen in the Quadrennial Defense Review.

But how are we to know what this very different military should look like? Secretary Cohen and General Shelton, encouraged and supported by legislation we passed last year, established a process to answer that question. On the first of October, 1998, they charged the Commander in Chief of the United States Atlantic Command, Admiral Harold Gehman, to put in place a joint experimentation process to objectively determine which new technologies, organizations, and concepts of operation are likely to define our military superiority. Since that time Admiral Theman has done a superb job of establishing a process and beginning experiments toward that end. In June, 1999, Admiral Gehman began experiments to see how the U.S. military should be equipped and organized to effectively find and strike critical mobile enemy targets, such as ballistic missiles. Other experiments to address near, mid, and far term strategic and operational problems will follow. On the first of October of this year the Secretary and the Chairman increased the priority of the policy of transformation by redesignating the United States Atlantic Command as the United States Joint Forces Command. This is not simply a change in name. It underlines the increasing importance of increased jointness in meeting the security challenges of the twenty-first century, increases the priority assigned to experimentation, and reflects the expanded role that the United States Joint Forces Command assumes in order to achieve that goal. I applaud Secretary Cohen and General Shelton for their commitment to transformation of the U.S. military and their courage to make the tough changes needed to get it done.

I am also pleased to see that their leadership is having a positive effect on our military Services’ plans to transform themselves to meet the coming challenges. The U.S. Air Force has begun to reorganize its units into Air Expeditionary Forces to be more responsive to the need for air power by the warfighting commanders. And I note with great admiration that on October 12, 1999, Secretary Cohen and General Shinseki plans to find technological solutions to these problems, and intends to create this year an experimentation process at Fort Lewis Washington in order to begin to construct this new Air Force. He wants to have the time to eliminate the distinction between different types of Army units, and perhaps in time go to an all-wheeled fleet of combat vehicles, eliminating the tank as we have known it for almost a century. These are historic and very positive steps. But there is much progress that must still be made. For example, the Army and the Air Force must now implement their plans in concert with the other services, and with the Joint Forces Command.

Fundamental changes are very difficult to effect, especially in organizations, like the Department of Defense, that are large and successful. Frankly, I am a little surprised that we have been able to achieve these changes in such a short time. But organizations that don’t change ultimately fail, and that is not an outcome we can accept. So we should not only applaud these moves, but support them, and encourage faster and more direct action. An excellent report by the Defense Science Board in August, 1999 suggests some things we can do to provide this support. The most important are encouraging the development of a DOD-wide strategy for transformation activities, and insisting on the establishment of processes to turn the results of experiments into real capabilities for our forces. And we must ensure that this effort is not hobbled by lack of resources. Perhaps most importantly, we must insist that no service program be agreed to or resource unless we are assured that it has passed through a rigorous joint assessment and is consistent with the joint warfighting needs of our military commanders.

I urge my colleagues to join me in complementing our senior leaders and to support their efforts to move to the next level of jointness as they grapple with the difficult task of building the most effective American military possible for the 21st century.

**THE FREEDOM TO TRAVEL TO CUBA ACT OF 1999**

Mr. LEAHY. Mr. President, any American who wants to travel to Iran, to North Korea, to Syria, to Serbia, to Vietnam, to just about anywhere, can do so, as long as that country gives them a visa. As far as the United States Government is concerned, they can travel to Cuba. As General Shinseki has said, we have to find technological solutions to these problems, and intends to create this year an experimentation process at Fort Lewis Washington in order to begin to construct this new Air Force. He wants to have the time to eliminate the distinction between different types of Army units, and perhaps in time go to an all-wheeled fleet of combat vehicles, eliminating the tank as we have known it for almost a century. These are historic and very positive steps. But there is much progress that must still be made. For example, the Army and the Air Force must now implement their plans in concert with the other services, and with the Joint Forces Command.

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I urge my colleagues to join me in complementing our senior leaders and to support their efforts to move to the next level of jointness as they grapple with the difficult task of building the most effective American military possible for the 21st century.

I wonder how many Senators realize that if they wanted to take a family member with them to Cuba, they would probably be prevented from doing so by United States law. Actually, because the authors of the law knew that a blanket prohibition on travel by American citizens would be unconstitutional, they came up with a clever way of avoiding that problem but accomplishing the same result. Americans can travel to Cuba, but accomplishing the same result. Americans cannot travel to Cuba, but they just cannot spend any money there.

Almost a decade has passed since the collapse of the former Soviet Union. Eight years have passed since the Russians cut their $3 billion subsidy to Cuba. We now give Russia billions of dollars in aid to Russia. Americans can travel to North Korea. There are no restrictions on the right of Americans to travel there, or to spend money there. Which country poses a greater threat to the United States? Obviously North Korea.

Americans can travel to Iran, and they can spend money there. The same
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from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(Taxpayers received today were printed at the end of the Senate proceedings.)

CONTINUATION OF THE EMERGENCY REGARDING WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 73

The President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

On November 14, 1994, in light of the dangers of the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and the means of delivering such weapons, I issued Executive Order 12938, and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.). Under Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration unless, within the 90-day period prior to each anniversary date, I publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect. The proliferation of weapons of mass destruction and the means of delivering such weapons presents an unusual and extraordinary threat to the national security, economic interests, and foreign policy of the United States. I am, therefore, advising the Congress that the national emergency declared on November 14, 1994, and extended on November 14, 1995, November 12, 1996, November 13, 1997, and November 12, 1998, must continue in effect beyond November 14, 1999, and I have extended the national emergency declared in Executive Order 12938, as amended.

The following report is made pursuant to section 204(a) of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), regarding activities taken and money spent pursuant to the emergency declaration. Additional information on nuclear, missile, and/or chemical and biological weapons (CBW) nonproliferation efforts is contained in the most recent annual report on the Proliferation of Missiles and Essential Components of Nuclear, Biological, and Chemical Weapons, provided to the Congress pursuant to section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190), also known as the "Nonproliferation Report," and the most recent annual report provided to the Congress pursuant to section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102-182), also known as the "CBW Report."
cut-off treaty (FMCT) and, pending their conclusion, a moratorium on production of fissile material for nuclear weapons and other nuclear explosive devices; restraint in development and deployment of nuclear-capable missiles and adoption of measures to achieve verifiable international standards on exports of sensitive materials and technology.

Against this backdrop of international pressure on India and Pakistan, high-level negotiating groups with Indian and Pakistani officials have yielded little progress. In September 1998, Indian and Pakistani leaders had expressed willingness to sign the CTBT. Both governments, having already declared moratoria, had indicated they were prepared to sign the CTBT by September 1999 under certain conditions. These declarations were made prior to the collapse of Prime Minister Vajpayee's Indian government in April 1998, which complicated consideration of CTBT signature in India. The Indian election, the Kargil conflict, and the October political coup in Pakistan have further complicated the issue, although neither country has renounced its commitment. Pakistan has stated that it will not sign the Treaty until India does. Additionally, Pakistan's Foreign Minister stated publicly on September 12, 1999, that Pakistan would not consider signing the CTBT until sanctions are removed.

India and Pakistan both withdrew their opposition to negotiations on an FMC in Geneva at the end of the 1998 Conference on Disarmament session. However, these negotiations were unable to resume in 1999 and we have no indications that India or Pakistan played helpful “behind the scenes” roles. They also pledged to institute strict controls that meet internationally accepted standards on sensitive exports, and have begun expert discussions with India and Pakistan on this subject. In addition, India and Pakistan resumed their bilateral dialogue on outstanding disputes, including Kashmir, at the Foreign Secretary level. The Kargil conflict this summer complicated efforts to continue this bilateral dialogue, although both sides have expressed interest in resuming the discussions at some future point. We will continue discussions with both governments at the senior and expert levels.

With the electronic threat and to build a safer world. For these reasons, we hope that at an appropriate time, the Senate will reconsider this treaty in a manner that will ensure a fair and thorough hearing process and will allow for more thoughtful debate.

The 35 member states of the Nuclear Suppliers Group (NSG) is a widely accepted, mature, and effective export-control arrangement. At its May 1999 Plenary and related meetings in Florence, Italy, the NSG considered new members (although none were accepted at that meeting), reviewed efforts to enhance transparency, and pursued efforts to streamline procedures and update control lists. The NSG created an Implementation Working Group, chaired by the UK, to consider changes to the guidelines, membership issues, the relationship with the NPT Exporters (Zangger) Committee, and controls on brokering. The Transparency Working Group was tasked with preparing a report on NSG activities for presentation at the 2000 NPT Review Conference by the Italian chair. The French will host the Plenary and assume the NSG chair in 2000 and the United States will host and chair in 2001.

The NSG is currently considering membership requests from Turkey and Belarus. Turkey's membership, pending only agreement by Russia to join the intercessional consensus of all other NSG members. The United States believes it would be appropriate to confirm intercessional consensus in support of Turkey's membership before considering other candidates. Belarus has been in consultation with the NSG Chair and other members including Russia and the United States regarding its interest in membership and the status of its implementation of export controls to meet NSG Guideline standards. The United States will not block intercessional consensus of NSG members in support of NSG membership for Belarus, provided the consensus for Turkey's membership precedes it. Cyprus and Kazakhstan have also expressed interest in membership and are in consultation with the NSG Chair and other members regarding the status of their export control systems. China is the only major Nuclear Supplier that is not a member of the NSG, primarily because it has not accepted the NSG policy of requiring full-scope safeguards as a condition for supply of nuclear-related items to non-nuclear weapon states. However, China has taken major steps toward harmonization of its export control system with the NSG Guidelines by the implementation of controls over nuclear-related and dual-use equipment and technology.

During the last 6 months, we reviewed intelligence and other reports of trade in nuclear-related material and technology that might be relevant to nuclear-related proliferation, including in the Iran-Iraq Arms Non-Proliferation Act of 1992, as amended; the Export-Import Bank Act of 1945,
The Chemical Weapons Convention Implementation Act of 1998 was enacted into U.S. law in October 1998, as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Public Law 105-277). The Act established an Executive Order on June 25, 1999, to facilitate implementation of the Act and is working to publish regulations regarding industrial declarations and inspections of industrial facilities. The United States continues to provide notice to OPCW and, subsequent inspections, will enable the United States to be fully compliant with the CWC. United States noncompliance to date has, among other things, undermined U.S. leadership in the organization as well as our ability to encourage other States Parties to make complete, accurate, and timely declarations.

Countries that refuse to join the CWC will be politically isolated and prohibited from trading with States Parties. This is particularly significant in some 29 countries. No challenge inspection has yet taken place. To meet the international effort to reduce the threat from biological weapons (BW), the United States participates actively in the Ad Hoc Group (AHG) of States Parties to the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Deletion (the Biological Weapons Convention or BWC). This AHG was mandated by the September 1994 BWC Special Conference. The Fourth BWC Review Conference, held in November/December 1996, urged the AHG to convene as soon as possible but not later than the next Review Conference to be held in 2001. Work is progressing on a draft rolling text through insertion of national views and clarification of existing text. Five AHG negotiating sessions were scheduled for 1999. The United States is working toward completion of the substance of a strong Protocol next year. In January 27, 1998, during the State of the Union address, I announced that the United States would lead the effort to erect stronger international barriers against the proliferation and use of BW by strengthening the BWC with a new international system to detect and deter cheating. The United States is working closely with U.S. industry representatives to obtain technical input relevant to the development of U.S. negotiating positions and then to reach international agreement on data declarations and on-site investigations.

The Chemical and Biological Weapons

The report control regulations issued under the Enhanced Proliferation Control Initiative (EPCI) remain fully in force. They allow the Department of Commerce, in consultation with other agencies, to examine the exchange of items with potential use in chemical or biological weapons or unannounced delivery systems for weapons of mass destruction.

Chemical weapons (CW) continue to pose a very serious threat to our security and that of our allies. On April 29, 1997, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Chemical Weapons Convention or CWC) entered into force with 87 of the CWC's 168 States Signatories as original States Parties. The United States among their number, having ratified the CWC on April 25, 1997. Russia ratified the CWC on November 5, 1997, and became a State Party on December 8, 1997. Together, 125 countries (including China, Iran, India, Pakistan, and Ukraine) have become States Parties.

The implementing body for the CWC—the Organization for the Prohibition of Chemical Weapons (OPCW)—was established at entry-into-force (EIF) of the Convention on April 29, 1997. The OPCW, located in The Hague, has primary responsibility (along with States Parties) for implementing the CWC. It consists of the Conference of States Parties, the Executive Council (EC), and the Technical Secretariat (TS). The TS carries out the verification provisions of the CWC, and presently has a staff of approximately 500. The OPCW inspectors are trained and equipped to inspect military and industrial facilities throughout the world. To date, the OPCW has conducted over 500 routine inspections in some 29 countries. No significant inspections have yet taken place. To date, nearly 170 inspections have been conducted at military facilities in the United States. The OPCW maintains a permanent inspector presence at operational U.S. CW destruction facilities in Utah and Johnston Island. The United States is determined to seek full implementation of the concrete measures in the CWC designed to raise the costs and risks for any state or terrorist attempting to engage in chemical and biological weapons activities. The OPCW's declaration requirements improve our knowledge of possible chemical weapons activities. Its inspection provisions provide for access to declared and undeclared facilities and locations, thus making clear the costs of chemical weapons production and stockpiling more difficult, more risky, and more expensive.

The United States continues to play a leading role in the international effort to reduce the threat from biological weapons (BW). We participate actively in the Ad Hoc Group (AHG) of States Parties to the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Deletion (the Biological Weapons Convention or BWC). This AHG was mandated by the September 1994 BWC Special Conference. The Fourth BWC Review Conference, held in November/December 1996, urged the AHG to convene as soon as possible but not later than the next Review Conference to be held in 2001. Work is progressing on a draft rolling text through insertion of national views and clarification of existing text. Five AHG negotiating sessions were scheduled for 1999. The United States is working toward completion of the substance of a strong Protocol next year.

In January 27, 1998, during the State of the Union address, I announced that the United States would lead the effort to erect stronger international barriers against the proliferation and use of BW by strengthening the BWC with a new international system to detect and deter cheating. The United States is working closely with U.S. industry representatives to obtain technical input relevant to the development of U.S. negotiating positions and then to reach international agreement on data declarations and on-site investigations. The United States continues to be a leading participant in the 30-member Australia Group (AG) chemical and biological weapons nonproliferation regime. The United States attended the most recent annual AG Plenary Session from October 4-8, 1999, during which the Group reaffirmed the members' continued collective belief in the Group's viability, importance, and compatibility with all states' obligations under the CWC and BWC. Members continue to agree that full adherence to the CWC and BWC by all governments will be the only way to achieve a permanent global ban on chemical and biological weapons, and their deployment in WMD contexts.

The United States continues to examine closely the transfer of Category II missile technologies and other materials intended for use in Category I and II national missile programs. We impose missile sanctions laws against North Korea, Iran, China, Pakistan, Iraq, and other current and potential missile proliferation concern. We also impose missile sanctions laws against North Korea and North Korean and Pakistani entities for transfers involving Category II Missile Technology Control Regime (MTCR) Annex items. Category I missile sanctions imposed in April 1998 against North Korean and Pakistani entities for the transfer from North Korea to Pakistan of equipment and technology related to the Ghauri missile remain in effect.

During this reporting period, MTCR Partners continued to share information about proliferation problems with each other and with other potential missile proliferators and consuming states. Partners also emphasized the need for implementing effective export control systems. This cooperation has resulted in the interdiction of missile-related materials intended for use in missile programs of concern.

In June the United States participated in the MTCR's Reinforced Point of Contact Meeting (RPOC). At the
In March 1999, the United States and the DPRK held a fourth round of missile talks to underscore our strong opposition to North Korea’s destabilizing missile development and export activities and press for tight constraints on DPRK missile testing, and exports. We also affirmed that the United States would seek new measures to address growing missile proliferation concerns worldwide. As before, the DPRK refused to discuss the threat to Korean security posed by its missile programs and to engage in nuclear cooperation. We continue to seek a comprehensive solution to this serious concern. Despite the DPRK’s refusal to act, the United States has continued to take action against North Korea, and worked with our partners to pass legislation to impose additional sanctions on DPRK entities and to focus UN sanctions on DPRK weapons of mass destruction (WMD) and missile programs.

The MTCR held its Fourteenth Plenary Meeting in Noordwijk, the Netherlands, November 11–15. At this Plenary, the Partners shared information about activities of missile proliferation concern worldwide. They focussed in particular on the threats from North Korea, Iran, and Russia. The Partners discussed ways to address the proliferation potential inherent in intangible technology transfers. The seminar helped participants to develop a greater understanding of the intangible technology issue (i.e., how proliferators misuse the internet, scientific conferences, plant visits, student exchange programs, and higher education to acquire sensitive technology), and to begin to identify steps governments can take to address this problem.

In July 1999, the Partners completed a reformattting of the MTCR Annex. The newly reformatted Annex is intended to improve clarity and uniformity in the formulation of MTCR controls while maintaining the coverage of the previous version of the MTCR Annex. The MTCR held its Fourteenth Plenary Meeting in Noordwijk, the Netherlands, November 11–15. At the Plenary, the Partners shared information about activities of missile proliferation concern worldwide. They focussed in particular on the threat to international security and stability posed by missile proliferation in key regions and considered what practical steps they could take, individually and collectively, to address ongoing missile-related activities of concern. During their discussions, the Partners gave special attention to DPRK missile activities and discussed ways to take further action to deter future proliferation-related activities. The Partners also discussed the threat to international security and stability posed by missile proliferation in key regions and considered what practical steps they could take, individually and collectively, to address ongoing missile-related activities of concern.
to 32 member countries; several nonmember countries have been persuaded to apply export controls consistent with one or more of the regimes unilaterally; and most of the members of the nonproliferation regimes have applied national export controls similar to those under the U.S. Enhanced Proliferation Control Initiative. (Export controls normally are tied to a specific list of items, such as the MTCA Annex. “Catch-all” controls provide a legal basis to control exports of items not on a list, when those items are destined for WMD/missile programs.)

United States export controls, especially “catch-all” controls, also make important political and moral contributions to the nonproliferation effort. They uphold the broad legal obligations the United States has undertaken in the Nuclear Nonproliferation Treaty (Article I), Biological Weapons Convention (Article III), and Chemical Weapons Convention (Article I). They also prevent anyone in proscribed WMD activities. They endeavor to assure there are no U.S. “fingerprints” on WMD and missiles that threaten U.S. citizens and territory and American interests overseas. They place the United States squarely and unambiguously against WMD/missile proliferation, even against the prospect of inadvertent proliferation from the United States itself.

Finally, export controls play an important role in enabling and enhancing legitimate trade. They provide a means to permit dual-use export to proceed under circumstances where, without export control scrutiny, the only prudent course would be to prohibit them. They help build confidence between countries applying similar controls that, in turn, results in increased trade. Each of the WMD nonproliferation regimes, for example, has a “no underwriting” policy, committing each member not to make an export that another has denied for nonproliferation reasons and notified to the rest—unless it first consults with the original denying country. Not only does this policy make dual-use export a benefit for proliferators to get items from regime members, it establishes a “level playing field” for exporters.

THREAT REDUCTION

The potential for proliferation of WMD and delivery system expertise has increased as a consequence of the economic crisis in Russia and other Newly Independent States, causing concern. My Administration gives high priority to controlling the human dimension of proliferation through programs that support the transition of former Soviet weapons scientists to civilian research and technology development activities. I have proposed an additional $4.5 billion for programs embodied in the Expanded Threat Reduction Initiative that would support similar activities in four areas: nuclear security; nonnuclear WMD; science and technology nonproliferation; and military relocation, stabilization and other security cooperation programs. Congressional support for this initiative would enable the engagement of a broad range of programs under the Departments of State, Energy, and Defense.

EXPENSES

Pursuant to section 401(c) of the National Emergencies Act (50 U.S.C. 1640(a)), I have determined that there were no specific expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order 12938, as amended, during the period from May 15, 1999, through November 10, 1999.

WILLIAM J. CLINTON.


MESSAGES FROM THE HOUSE

At 10:01 a.m., a message from the House of Representatives, delivered by Ms. Nielson, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 78. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

The message also announced that the House has agreed to the report of the committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1554) to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite.

At 11:45 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2879. An act to provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the “I have a Dream” speech.

H.R. 3000. An act to amend the Alabama Native Claims Settlement Act to restore certain lands to the Elfin Native Corporation, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 205. Concurrent resolution recognizing and honoring the heroic efforts of the Air National Guard’s 109th Airlift Wing and its rescue of Dr. Jerri Nielsen from the South Pole.


The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 306L. An act to amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act.

H. R. 915. An act to authorize a cost of living adjustment in the pay of administrative law judges.

At 12:38 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 348. An act to authorize the construction of a monument to honor those who have served the Nation’s civil defense and emergency management programs.

H. R. 306L. An act to amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act.

H. R. 915. An act to authorize a cost of living adjustment in the pay of administrative law judges.

At 4:38 p.m., a message from the House of Representatives, delivered by Ms. Nielson, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H. J. Res. 78. Joint resolution waiving certain enrollment requirements for the remainder of the first session of the One Hundred Sixth Congress with respect to any bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2000.

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-624. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of major defense equipment sold under a contract in the amount of $50,000,000 or more to Australia; to the Committee on Foreign Relations.
EC-6125. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the Arms Export Control Act, a report relative to certain licenses for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Mexico; to the Committee on Finance.

EC-6126. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Turkey; to the Committee on Foreign Relations.

EC-6127. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to  the report of a rule entitled "Procedures for Netting Interest" (Rev. Proc. 99-43), received November 8, 1999, to the Committee on Finance.

EC-6128. A communication from the Deputy Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Security of Investments: Amendment of Regulations of the Investment Company Act of 1940" (97 FR 53754, issued November 8, 1999), to the Committee on Banking, Housing, and Urban Affairs.

EC-6129. A communication from the Director, Office of Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "West Virginia Regulatory Program" (SPATS No. WV-081-FOR), received November 8, 1999, to the Committee on Energy and Natural Resources.

EC-6130. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "West Virginia Regulatory Program" (SPATS No. WV-081-FOR), received November 8, 1999, to the Committee on Energy and Natural Resources.

EC-6131. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revised NRC Enforcement Policy", received November 3, 1999, to the Committee on Environment and Public Works.

EC-6132. 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 and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators (HI/M/I); State of Nebraska" (FRL #6473-10), received November 8, 1999, to the Committee on Environment and Public Works.

EC-6133. 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 Revisions to the Georgia State Implementation Plan" (FRL #6471-10), received November 8, 1999, to the Committee on Environment and Public Works.

EC-6134. 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 "Air Quality Improvement Plans; Rhode Island; Amendments to Air Pollution Control Regulation Number 9, Correction" (FRL #6473-6), received November 4, 1999, to the Committee on Environment and Public Works.

EC-6135. 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 Implementation Plans; Ahmadi; Texas; Revisions to Consumer Products Rules" (FRL #6471-8), received November 4, 1999, to the Committee on Environment and Public Works.

EC-6136. 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 "Removal of the Approval and Promulgation of Air Quality Implementation Plans; Connecticut; National Low Emission Vehicle Program" (FRL #6471-7), received November 4, 1999, to the Committee on Environment and Public Works.

EC-6137. 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 Implementation Plans; Oklahoma; Visibility Protection" (FRL #6469-4), received November 2, 1999, to the Committee on Environment and Public Works.

EC-6138. 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 Implementation Plans; Tennessee; Approval of Revisions to Knox County Portion of Tennessee Implementation Plan" (FRL #6469-4), received November 2, 1999, to the Committee on Environment and Public Works.

EC-6139. 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 and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators (HI/M/I); State of Nevada" (FRL #6473-10), received November 8, 1999, to the Committee on Environment and Public Works.

EC-6140. 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 Revisions to the Georgia State Implementation Plan" (FRL #6471-10), received November 8, 1999, to the Committee on Environment and Public Works.

EC-6141. 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 "State Implementation Plans; Policy Regarding Excess Emissions During Malfunctions, Start-up, and Shutdown"; to the Committee on Environment and Public Works.


EC-6143. A communication from the Secretary of Agriculture, transmitting, a draft of proposed regulations for the inspection of poultry and poultry inspection; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6144. 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 "Zincphosphate; Extension of Tolerance for Emergency Exemptions" (FRL #6389-9), received November 8, 1999, to the Committee on Agriculture, Nutrition, and Forestry.

EC-6145. 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 "Glufosinate Ammonium; Pesticide Tolerance" (FRL #6391-5), received November 1, 1999, to the Committee on Agriculture, Nutrition, and Forestry.

EC-6146. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Almonds Grown in California: Salable and Reserve Percentages for the 1999-2000 Crop Year" (FV-99-983-3 FR), received November 3, 1999, to the Committee on Agriculture, Nutrition, and Forestry.

EC-6147. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the States of Michigan, and Others: Establishment of Minimum Seed Content, and Minimum Size" (FV-99-981-4 FR), received November 3, 1999, to the Committee on Agriculture, Nutrition, and Forestry.

EC-6148. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Almonds Grown in California: Revisions to the Regulations Regarding Credit for Promotion and Advertising Activities" (FV-99-930-3 FR), received November 3, 1999, to the Committee on Agriculture, Nutrition, and Forestry.

EC-6149. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Grapefruit; Relaxation of the Minimum Size Requirement for Certain Beneficial Owners; Reports to Shareholders of Management Companies; Reports to Stockholders of Unit Investment Trusts; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6150. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tomatoes Grown in Florida: Decrease Assessed Rate" (FV-99-974-2 FR), received November 3, 1999, to the Committee on Agriculture, Nutrition, and Forestry.

EC-6151. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Grapefruit; Relaxation of the Minimum Size Requirement for Seedless Grapefruit; Tangerines and Tangeloes Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Seedless Grapefruit" (FV-99-974-2 FR), received November 3, 1999, to the Committee on Agriculture, Nutrition, and Forestry.
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EC-6152. A communication from the Acting Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Order Granting the REMIC Investment Corporations' Petition for an Exemption Pursuant to Section 4(c) of the Commodity Exchange Act", received November 2, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6153. A communication from the Acting Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Foreign Futures and Options Transactions", received November 2, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

Antony M. Merck, of South Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2001. (The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. CAMPBELL:
S. 1904. A bill to redesignate the Federal Emergency Management Agency as the "Federal Fire and Emergency Management Agency", and to amend the Federal Fire Prevention and Control Act of 1974 to authorize the Director of the Federal Fire and Emergency Management Agency to make grants to local fire departments for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. EFFORDS, Mr. MOYNIHAN, Mr. CLELAND, Mr. KERRY, Mr. BIDEN, Mrs. BOXER, Mr. KOHL, Mr. SPECKER, Mr. ROBB, Mr. LEAHY, Mr. DEWINE, Mr. SARBANES, Mr. TORRICELLI, Mr. L. CHAFEE, Mr. KENNEDY, Ms. MIKULSKI, Ms. SNOWE, Mr. SCHUMER, Mr. LEVIN, and Mrs. HUTCHISON):
S. 1905. A bill to establish a program to conserve Atlantic highly migratory species of fish, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):
S. 1908. A bill to amend the Act establishing Women's Rightful Heritage National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Watervliet, New York; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Ms. SNOWE, Mr. HOLLINGS, Mr. SHELBY, Mr. KERRY, Mr. SESSIONS, and Ms. LANDRIEU):
S. 1911. A bill to conserve Atlantic highly migratory species of fish, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST (for himself, Mr. MCCAIN, and Mr. BINGAMAN):
S. 1912. A bill to facilitate the growth of electronic commerce and enable the electronic commerce market to continue its current growth rate and realize its full potential, to signal strong support of the electronic commerce market by promoting its use within Federal government agencies and small and medium-sized businesses, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT (for Mr. MCCAIN (for himself and Mr. KYL)):
S. 1913. A bill to amend the Act entitled "An act relating to the water rights of the Ak-Chin Indian Community" to clarify certain provisions concerning the leasing of such water rights, and for other purposes; to the Committee on Indian Affairs.

By Mr. MACK (for himself and Mrs. HUTCHISON):
S. 1914. A bill to amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds by property and casualty insurance companies for the payment of policyholders arising from future catastrophic events; to the Committee on Finance.

By Mr. EFFORDS (for himself, Mr. CRAGO, Mr. MURKOWSKI, Mr. SCHUMER, Mr. HARKIN, Mr. BRYAN, Mr. BURNS, and Mr. REID):
S. 1915. A bill to enhance the services provided by the Environmental Protection Agency to small communities that are attempting to comply with national, State, and local environmental regulations; to the Committee on Environment and Public Works.

By Mr. LOTT (for Mr. MCCAIN):
S. 1916. A bill to extend certain expiring Federal Aviation Administration authorizations for a 6-month period, and for other purposes; considered and passed.
The “Firefighter Investment and Response Enhancement (FIRE) Act of 1999” would authorize the newly-named Federal Fire and Emergency Management Agency to make available matching grants on a competitive basis to fire departments for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards. This bill is a companion to H.R. 11683, which was introduced by my colleague in the House of Representatives, Congressman PASCRELL.

Mr. President, each year approximately 100 of our nation’s firefighters pay the ultimate sacrifice to preserve the safety of our communities. Increased demands on firefighting personnel have made it difficult for local governments to prepare for necessary fire safety precautions. The fire loss in the United States is serious, and the fire death rate is one of the highest per capita in the industrialized world. Fire kills more than 11 people and injures more than 25,000 people each year. Today, 11 people will die due to fire. Two of these people are likely to be children under the age of 5. Another 68 people will suffer serious injury due to fire. Financially, the impact of America’s estimated $77 million fires annually is $77 billion in direct property losses. Those numbers are staggering, and many of these losses could have been prevented.

The bill I introduce today would make grants available to train firefighter personnel in firefighting, emergency response, arson prevention and detection, and the handling of hazardous substances and pollutants or contaminants associated with the illegal manufacture of amphetamine or methamphetamine.

This bill also creates partnerships by allowing for the effective use of the capabilities of the National Institute of Standards and Technology, the Department of Commerce, and the Consumer Product Safety Commission for research and development aimed at advancing the health and safety of firefighters; information technologies for fire management; technologies for fire prevention and protection; firefighting technologies; and burn care and rehabilitation.

In addition, this legislation would ensure that grants would be made to a wide variety of fire departments, including applicants from paid, volunteer, and combination fire departments, large and small, which are situated in urban, suburban and rural communities.

Mr. President, despite the risks, 1.2 million men and women firefighters willingly put their lives on the line responding to fires which occur every day. Our greatest challenge is to put limited resources to work where they will make the most difference in saving lives and reducing losses.

I am pleased that the bill I introduce today has been endorsed by the Colorado State Fire Chief’s Association. I urge my colleagues to join me in supporting this important bill. 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. 199

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 “Firefighter Investment and Response Enhancement (FIRE) Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) increased demands on firefighting personnel have made it difficult for local governments to adequately fund necessary fire safety precautions;

(2) the Federal Government has an obligation to protect the health and safety of the firefighting personnel of the United States and to ensure that the personnel have the financial resources to protect the public;

(3) the United States has serious fire losses, including a fire death rate that is one of the highest per capita in the industrialized world;

(4) in the United States, fire kills more than 4,000 people and injures more than 25,000 people each year;

(5) in any single day in the United States, on the average—

(A) 11 people will die because of fire;

(B) 2 of those people will be likely to be children under the age of 5;

(C) 68 people will be injured because of fire; and

(D) over $9,000,000,000 in property losses will occur from fire; and

(6) those statistics demonstrate a critical need for Federal investment in support of firefighting personnel.

SEC. 3. REDESIGNATION OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The Federal Emergency Management Agency is redesignated as the “Federal Fire and Emergency Management Agency”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Emergency Management Agency shall be deemed to refer to the Federal Fire and Emergency Management Agency.

SEC. 4. FIREFIGHTER INVESTMENT AND RESPONSE ENHANCEMENT.

The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203 et seq.) is amended by adding at the end the following:

"SEC. 31. FIREFIGHTER INVESTMENT AND RESPONSE ENHANCEMENT.

"(a) DEFINITION OF FIREFIGHTING PERSONNEL.—In this section, the term ‘‘firefighting personnel’’ means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

"(b) GRANT PROGRAM.—

"(1) AUTHORITY.—In accordance with this section, the Director may make grants on a competitive basis to fire departments for the purpose of protecting the health and safety of the public and firefighting personnel against fire and fire-related hazards.\"
Only if the applicant for the grant agrees to submit to the Director a report, including a description of how grant funds were used, with respect to each fiscal year for which a grant was made, shall the Director ensure that grants under paragraph (1) for a fiscal year are made to a variety of fire departments and other public and private sector entities, for research and development at advancing—

(i) the health and safety of firefighters;

(ii) information technologies for fire management;

(iii) technologies for fire prevention and protection;

(iv) firefighting technologies; and

(v) burn care and rehabilitation;

(C) fire departments located in urban, suburban, and rural communities.

FIGHTING VEHICLES.—The Director shall ensure that there are eligible applicants—

(A) paid, volunteer, and combination fire departments;

(B) fire departments located in communities of varying sizes; and

(C) fire departments located in urban, suburban, and rural communities.

LIMITATIONS FOR FIREFIGHTING VEHICLES.—The Director shall ensure that not more than 25 percent of the assistance made available under paragraph (1) for a fiscal year is used for the use described in paragraph (3)(G).

AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Director such sums as may be necessary to carry out this section.

(2) LIMITATION ON ADMINISTRATIVE COSTS.—The amounts made available under paragraph (1) for a fiscal year may not exceed 10 percent of the administrative costs of carrying out this section.

By Mr. LAUTENBERG (for himself, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. CLELAND, Mr. KEARNY, Mr. BIDEN, Mrs. BOXER, Mr. KOHL, Mr. SPECTER, Mr. ROBB, Mr. LEAHY, Mr. DEWINE, Mr. SARBANES, Mr. TORRICELLI, Mr. L. CHAFEE, Mr. GRAHAM, Mr. KENNEDY, Ms. MIKULSKI, Ms. SNOWE, Mr. SCHUMER, Mr. LEVIN, Mr. MURPHY, Mr. NICHELSON, Mr. LEAHY, Mr. DREWINE, Mr. BIDEN, Mr. KERRY, Mr. BIDEN, Mrs. BOXER, Mr. ROBB, Mr. LEAHY, Mr. DEWINE, Mr. SARBANES, Mr. TORRICELLI, Mr. L. CHAFEE, Mr. GRAHAM, Mr. KENNEDY, Ms. MIKULSKI, Ms. SNOWE, Mr. SCHUMER, Mr. LEVIN, Mr. MURPHY, Mr. NICHELSON, Mr. LEAHY, Mr. DREWINE). S. 1900. A bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes; to the Committee on Finance.

HIGH-SPEED RAIL INVESTMENT ACT

Mr. LAUTENBERG. Mr. President, overcrowding on our highways and in our skies is almost at the crisis point. We're spending billions of dollars each year for wasted gas and wasted time because there are fewer and fewer ways to get somewhere quickly and comfortably.

We're not going to solve that problem by simply building new roads or airports. People don't want airports in their backyards, and there just isn't enough space in many parts of the country for new roads. Besides, new airports and new roads cost billions. And they become obsolete almost as quickly as we build them.

Instead of wasting money on ineffective short-term solutions, we should be investing in a transportation plan that promises lasting benefits far into the next century.

High-speed rail is the future of transportation in this country. Train travel is comfortable, reliable, and it's getting faster all the time. The rail lines are already there. All we need to do is bring them up to 21st-century standards.

The legislation I'm introducing today would make a serious investment in the future of high-speed rail. And an investment in high-speed rail is an investment in less crowded highways and airports, cleaner air, and a new level of productivity for millions of Americans who live and work well. You almost have to know yoga just to cram yourself into one of those tiny seats.

Land and financial resources are scare and we need to make better use of what we already have. Our rail lines are there, ready to help solve the overcrowding problems that are making our transportation options less and less appealing. But for the most part, U.S. transportation policy has ignored the potential of high-speed rail and our rail system has fallen far below the standards set in nearly every other developed nation on the planet.

My legislation seeks to change that by authorizing Amtrak to sell $10 billion in high-speed rail bonds over ten years to develop high-speed corridors across the nation. This leveraging of private sector investment will allow Amtrak to do what the Northeast Corridor high-speed project and provide the funding needed to bring faster, better service to federally designated high-speed corridors in other regions.

These corridors cover states in the Northeast, the Southeast, the Midwest, the Gulf Coast, and the Pacific Coast. Our aim is to take what we've learned in the Northeast and provide it to the rest of the nation.

The Federal Government would subsidize these bonds by providing tax credits to bondholders in lieu of interest payments. And state matching funds would help secure repayment of the bond principal.

Mr. President, the money we don't spend on high-speed rail today we will have to spend tomorrow—on things like highway construction and pollution controls.

Investing in high-speed rail is not only good transportation policy, it is good land use policy. Constructing an airport or highway outside of city limits promotes sprawl, robs cities of valuable revenue, and increases the pressure for even more road construction.
Rail travel, on the other hand, is downtown-to-downtown, not suburb-to-suburb. Rail transportation encourages efficient, “smart growth” land use patterns, preserves downtown economies, protects open space, and improves air quality.

Furthermore, passenger rail stations serve as focal points for commercial development, promoting downtown redevelopment and generating increased retail business and tax revenue. Making efficient and cost-effective use of existing infrastructures is an increasingly important goal and one which this legislation will help achieve.

Mr. President, high-speed rail is already proving itself. In 1999, Amtrak’s Metroliner train between Washington and New York set its third consecutive ridership record with over two million passengers, and Amtrak reported the highest total revenues in the corporation’s 28-year history. The reason is simple—people are becoming less and less satisfied with the automobile. And more and more frustrated with gridlock on our highways.

You can see why. The summer of 1999 was the most delay-plagued season in history for air travel. And these delays are expected to worsen. In 1998, air traffic control delays cost the airlines and passengers a combined $4.5 billion.

Unfortunately, this problem is only going to get worse. The number of people flying is increasing significantly. In 1998 there were 438 million domestic and 54 million international boardings in the U.S., up 25 percent from just five years ago. The Federal Aviation Administration estimates that boardings will increase to 917 million by 2008. Our current aviation system can’t handle this demand. We need a quality passenger rail system to relieve some of this pressure.

Passenger rail can make a difference, particularly between cities located on high-speed corridors. I went back and looked at the list of the 31 airports expected to experience more than 20,000 passenger hours of flight delays in 2007. The vast majority of these airports—more than three out of four—are located on a high-speed rail corridor. If the funding envisioned in this legislation were made available to develop these corridors, we could take much of the burden of short flights off our aviation system. That would allow airlines to concentrate their limited slots and resources on long-distance flights.

Traffic congestion costs commuters even more—an estimated $74 billion a year in lost productivity and wasted fuel. These commuters, even the ones who continue to drive, will be well served by an investment in high-speed rail corridors. Amtrak takes 18,000 cars a day off the roads between Philadelphia and New York. Without Amtrak, these congested roads would be in far worse shape. Commuters in other parts of the country might not be able to enjoy the benefits from high-quality, fast rail service that takes cars off the road and helps to improve the performance of our overall transportation system.

This bill does not just benefit those who ride trains. Everyone who drives a car on congested highways or suffers from delays while using our overcrowded aviation system will benefit from the rail investment called for in this legislation. I can tell you, as a former executive who run a very profitable company, that high-speed rail is a smart investment. And it’s an investment that deserves support from Congress.

By Mr. KOHL (for himself and Mr. TORRICEI):
S. 1901. A bill to establish the Privacy Protection Study Commission to evaluate the efficacy of the Freedom of Information Act and the Electronic Freedom of Information Act Amendments of 1996 to determine whether new laws are necessary, and to provide advice and recommendations; to the Committee on the J udiciary.

The Privacy Protection Study Commission Act of 1999

Mr. KOHL. Mr. President, I rise today to introduce the Privacy Protection Study Commission Act of 1999 with my colleague Senator TORRICEI. This legislation addresses privacy protection concerns. A bipartisan Commission charged with the duty to explore privacy concerns. We cannot underestimate the importance of this issue. Privacy matters, and it will continue to matter more and more in this information age. Internet transactions, and lightning-quick technological advances.

There exists a massive wealth of information in today’s world, which is increasingly stored electronically. In fact, experts estimate that the average American is “profiled” in up to 150 commercial electronic databases. That means that there is a great deal of data—in some cases, very detailed and personal—out there and easily accessible courtesy of the Internet revolution. With the click of a button it is possible to examine all sorts of personal information, be it an address, a criminal record, a credit history, a shopping performance, or even a medical file.

Generally, the uses of this data are benign, even beneficial. Occasionally, however, personal information is obtained surreptitiously, and even peddled to third parties for profit or other selfish purposes. When, in many cases, people do not even know that their own personal information is being “shopped.”

Two schools of thought exist on how we should address these privacy concerns. There are those who insist that we must do something and do it quickly. Others urge us to rely entirely on “self-regulation”—according to them most companies will act reasonably and, if not, consumers will demand privacy protection as a condition for their continued business.

Both approaches have some merit, but also some problems. For example, even though horror stories abound about violations of privacy, Congress should not act by anecdote or on the basis of a few bad actors. Indeed, enacting “knee-jerk,” “quick-fix” legislation could very well do more harm than good. By the same token, however, self-regulation alone is likely to be the silver bullet that solves all privacy concerns. By itself, we have no assurance that it will bring the actors in line with adequate privacy protection standards.

I believe it is better to do it right—in terms of addressing the myriad of complicated privacy concerns—than to do it fast, perhaps what is needed is a cooling off period. Such a “breather” will ensure that our action is based on a comprehensive understanding of the issues, rather than a “mishmash” of political pressures and clever soundbites.

For those reasons, and recognizing that there are no quick and easy answers, I suggest that we step back and consider the issues more thoughtfully. Let’s admit that neither laws nor self-regulation alone may be the solution. Let’s also concede that no one is going to divine the right approach overnight. But given the time necessary, the Congress have the issue of privacy protection.

The “Privacy Protection Study Commission” composed of experts drawn from the fields of law, civil rights and liberties, privacy matters, business, or information technology, may offer insights on how to address government balance, privacy protection into the next millennium.

The bill I am introducing today would do just that. The Commission would be comprised of nine bright minds equally chosen by the Senate, the House, and the Administration. As drafted, the Commission will be granted the latitude to explore and fully examine the current complexities of privacy protection. After 18 months, the Commission will be required to report to Congress with a finding and recommendations. If legislation is necessary, the Commission will be in the best position to recommend a balanced course of action. And if lawmaking is not warranted, the Commission’s recognition of that fact will help persuade a skeptical Congress and public.

This is not a brand new idea. Twenty-five years ago, Congress created a Privacy Protection Commission to study privacy concerns as they related to government uses of personal information. That Commission’s findings were seminal. A quarter of a century later, because so much has changed, it is time to re-examine this issue on a much broader scale. The uses of personal information that concerned the Commission 25 years ago have exploded today, especially in this era of e-commerce, super databases, and mega-mergers. People are genuinely worried—perhaps they shouldn’t be—but their concerns are real. For example, a Wall Street Journal survey revealed that Americans today are more concerned about invasions of their personal privacy than they are...
about world war. Another poll cited in the Economist noted that 80 percent are worried about what happens to information collected about them. William Afire summed it up best in a recent New York Times essay: "We are dealing with a political sleeper issue. People are getting wise to this and are secretly examined and manipulated and it rubs them the wrong way."

One final note: given that privacy is not an easy issue and that it appears in so many other contexts, I invite all interested people to help us improve our legislation to create a Commission. We need to forge a middle ground consensus with our approach, and the door is open to all who share this goal.

Mr. President, I ask unanimous consent that the material referred to in the Record be printed in the Record.

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

[From the Economist—May 1, 1999]

THE END OF PRIVACY

Remember, they are always watching you. Use common sense: don’t use your name, phone number, social-security number or address, unless you absolutely have to. Do not fill in questionnaires or respond to tele-marketing offers, use credit cards, and photograph yourself. And datamarketing firms produce all information they have on you, correct errors and remove you from marketing lists. Check your medical records often. If you suspect a government agency has a file on you, demand to see it. Block caller ID on your phone, and keep your number unlisted. Never use electronic tollbooths, and never leave your mobile telephone on—your movements can be traced. Do not use store credit or discount cards. If you must use the Internet, encrypt your e-mail. Remember, the same information may have on you, correct errors and remove you from marketing lists. Check your medical records often. If you suspect a government agency has a file on you, demand to see it. Block caller ID on your phone, and keep your number unlisted. Never use electronic tollbooths, and never leave your mobile telephone on—your movements can be traced. Do not use store credit or discount cards. If you must use the Internet, encrypt your e-mail. Remember, the same information. Better still, use somebody else’s computer. At work, assume that calls, voice mail, e-mail and computer use are all monitored.

This sounds like a paranoid ravings of the Unabomber. In fact, it is advice being offered by the more zealous of today’s privacy campaigners. In the increasingly wired world, people are continually creating information about themselves that is recorded and often sold or pooled with information from other sources. Data collection in the name of privacy advocacy is as extreme. Anyone who took these precautions would merely be seeking a level of privacy that is now available to governments and companies.

Policing the proliferating number of databases that store your information would not only be costly in itself, it would also impose huge burdens on the economy. Moreover, such laws are based on a novel concept: that individuals have a property right in information about themselves. Broadly enforced, such a property right would be antithetical to an open society. It would pose a threat not only to commerce, but also to a free press and to much political activity, to say nothing of everyday conversation.

It is likely that laws will be used not to obstruct the recording and collection of information, but to catch those who use it to do harm. Fortunately, the same technology that makes it easier to trap stalkers, detect fraud, prosecute criminals and hold the government to account. The result could be less privacy, certainly—but also more security for the law-abiding.

Whatever new legal remedies emerge, opt-out of information-gathering is bound to become more ineffective. If most urban streets are monitored by intelligent video cameras that can identify criminals, who will want to live on a street with sidewalks on which everyone can be recognized individually? Envision the entire medical history on a plastic card that the emergency services come to rely on, a re-usable card to carry the card could be life-threatening. Why not put a card in your purse to come along with you to the doctor, hiring a car or booking a room at a top hotel without a credit card?

LEADERS

In a way, the future may be like the past, when few people cared much about privacy. To earlier generations, escaping the claustrophobic all-knowingness of a village for the relative anonymity of the city was more important than the privacy of modern life. But the era of urban anonymity already looks like a mere historical interlude. There is, however, one difference between past and future. In the village, everybody knew everybody else’s business. In the future, nobody will know for certain who knows what about them. That will be unfortunate. But the best advice may be: get used to it.

THE SURVEILLANCE SOCIETY

New information technology offers huge benefits—better crime prevention, improved medical care, dazzling entertainment, more convenience. But it comes at a price: less and less privacy. That will be unfortunate. But the best advice may be: get used to it.
bank debit card, most financial transactions, telephone calls, all dealings with national or local government. Supermarkets record every item being bought by customers who use debit cards. Mobile-phone companies are busy installing equipment that allows them to track the location of anyone who has a phone switched on. Electronic toll-booths have also been used to record the movement of individual vehicles. Pioneered in Britain, closed-circuit TV cameras now scan increasingly large swathes of urban environments. Mobile companies are considering following suit. The idea of using cellphones to help them interact with each other. The proliferation of surveillance means more government surveillance.

The burgeoning field of "biometrics" will make possible cheap and fool-proof systems that can identify people from their voices, on the other hand, the development of electronic commerce in Europe could come screeching to a halt, inflicting a huge cost on the EU's economy.

In any case, it is far from clear what effect this new law will have on Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it. The new law will have even in Europe. More products or services may have to be offered with the kind of legalistic bumf that is now attached to computer software. But, as with software, most consumers are likely to sign without reading it.
Enter the infomediary  

J ohn Hagel and Marc Singer of McKinsey, a management consulting firm, believe that from such services will emerge “informmediaries”, firms that become brokers of information between consumers and other companies, giving consumers privacy protection and also earning them some revenue for the information they are willing to release about themselves. Consumers were willing to pay for such brokerage, infomediaries might succeed on the Internet. Such firms would have the strongest possible stake in maintaining a reputation for privacy protection. But it is hard to imagine them thriving unless consumers are willing to funnel every transaction they make through a single company. Even if this is possible, which is unclear—many consumers may not want to rely so much on a single firm. Most, for example, already have more than one credit card.

In the meantime, many companies already declare that they will not sell information they collect about customers. But many others find it possible profitable not to make a deal—or keep—their promise. Consumers who want privacy must be ever vigilant, which is more than most can manage. Even those companies that do not sell information do not promise not to buy it. They almost certainly know more about their customers than their customers realize.

And in any case, market solutions, including infomediaries, are unlikely to be able to deal with growing government data bases or increased surveillance in public areas.

Technology. The Internet has spawned a fierce war between fans of encryption and governments, especially America’s, which argue that they must have access to the keys to software codes used on the web in the interest of the law enforcement. This quarrel has been rumbling on for years. But given the easy availability of increasingly complex codes, governments may just have to accept defeat, which would provide more privacy not just for innocent web users, but for criminals as well. Yet even encryption will only serve to restore to Internet users the level of privacy that most people have assumed they now enjoy in traditional (i.e., paper) mail.

Away from the web, the technological race between snoopers and anti-snoopers will also undoubtedly continue. But technology—and only ever a partial answer. Privacy will be reduced not only by government or private snooping, but by the constant recording of all sorts of information that individuals must provide to receive products or benefits—which is as true on as off the Internet.

Transparency. Despairing of efforts to protect privacy in the face of the approaching moral war, David Brin, an American physicist and science-fiction writer, proposes a radical alternative—its complete abolition. “The Transparent Society” (Addison-Wesley, $25) he argues that in future the rich and powerful—and most ominously of all, governments—will derive the greatest benefit from privacy protection, rather than ordinary people. Instead, says Mr. Brin, a clear, simple rule should be adopted: everyone should have access to all information about themselves. Americans should be able to tap into any database, corporate or governmental, containing personal information. Images from the video-surveillance cameras on every street corner should be accessible to everyone, not just the police.

The idea sounds disconcerting, he admits. But he argues that privacy is doomed in any case. Only the infomediary would enable people to know who knows what about them, and for the ruled to keep any eye on their rulers.

Video cameras would record not only criminals, but also abusive policemen. Corporate chiefs would know that information about themselves is as freely available as it is about their customers. Simple distribution would then encourage restraint in information gathering—and maybe even more.

Yet Mr. Brin does not explain what would happen to transparency violators or whether there would be any limits. What about national-security data or trade secrets? Police smother medical information. Law enforcement might find these of great interest. What is more, transparency would be just as difficult to enforce legally as privacy protection is now. Indeed, the very idea of selling privacy into a crime scene outlandish.

There is unlikely to be a single answer to the dilemma posed by the conflict between privacy and this growing power of information technology. But unless society collectively turns away from the benefits that technology can offer—surely the most unlikely outcome of all—privacy debates are likely to become very much more intense. In the brave new world of the information age, the right to be left alone is certain to come under siege as never before.

Noisy Parker Lives  

[William Safire, Washington]

A state sells its driver’s license records to a stalker; he sends her—a Hollywood starlet—from the photos and murders her.

A telephone company sells a list of calls; an extortionist analyzes the pattern of calls and blackmails the user of the phone.

A hospital transfers patient records to an insurance affiliate, which turns down a policy renewal.

A bank sells a financial disclosure statement to a borrower’s employer, who fires the employee for profligacy.

An Internet broker sells the records of a nètte’s searches to a lawyer’s private investigator, who uses “cookie”-generated evidence against the nètte in a lawsuit.

Such invasions of privacy are no longer far-out possibilities. The first listed above, the murder of Rebecca Schaeffer, led to the Driver’s Privacy Protection Act. That Federal law doesn’t prevent the sale of those imaginary concerns that only sounds good in press releases—“consumer privacy.” In the column alongside, Paul Gigot describes the hardball politics behind the financial reform bill’s other sticking point—the Community Reinvestment Act. Our subject here is Senator Richard Shelby’s strange idea of what, precisely, should constitute “consumer privacy” in the new world. “It’s our responsibility to identify what is out of bounds,” declared the identity confused Republican as he surfaced this phantom last spring.

Privacy concerns are a proper discussion point for the information age, but financial reform would actually end up alleviating some concerns. “Getting to a single consumer database would enable people to sell insurance, portfolio advice and checking accounts, there would be less incentive to peddle information to third parties.” Legislative reform and mergers in the financial industry were all supposed to be aimed at the same goal, using information efficiency within a single company to serve customers.

But, Mr. Shelby, that’s the point. The House passed a bill 343 to 86 to make “pretext calling” by snoops pretending to be the customer a Federal crime, plus an “opt out” that puts the burden on bank customers to tell their banks not to disclose account information to marketers. The bank lobby went along with this.

The Senate passed a version without privacy protection because Banking Chairman Phil Gramm said so. But in a Senate-House conference, Republican Richard Shelby of Alabama (who already toughened drivers’ protection at the behest of Phyllis Schlafly’s Eagle Forum and was a major force behind the House version. “‘Opt out’ is weak,” Shelby tells me, “but it’s a start.”

The groundsizzling resignment is in service of a public champion: the community bank that will gain momentum when some Presidential candidate seizes the sleeper issue of the too-targeted consumer. Laws need not always be the totality of the American way; even the smallest businesses will complete to assure customers’ right to decide.

The libertarian principle is plain: except in cases where some public interest, control of information about an individual must rest with the person himself. When the required permission is asked, he or she can sell it or trade it—or tell the bank, the search engine and the Motor Vehicle Bureau to keep their mouths shut.

Privately Held Concerns  


Congress has been paddling 20 years to get a financial-service overhaul bill, and now the canoecrashers are ready to run aground on one of the House’s most troublesome points: it’s good in press releases—“consumer privacy.” In the column alongside, Paul Gigot describes the hardball politics behind the financial reform bill’s other sticking point—the Community Reinvestment Act. Our subject here is Senator Richard Shelby’s strange idea of what, precisely, should constitute “consumer privacy” in the new world. “It’s our responsibility to identify what is out of bounds,” declared the identity confused Republican as he surfaced this phantom last spring.

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The Senate passed a version without privacy protection because Banking Chairman Phil Gramm said so. But in a Senate-House conference, Republican Richard Shelby of Alabama (who already toughened drivers’ protection at the behest of Phyllis Schlafly’s Eagle Forum and was a major force behind the House version. “‘Opt out’ is weak,” Shelby tells me, “but it’s a start.”

The groundsizzling resignment is in service of a public champion: the community bank that will gain momentum when some Presidential candidate seizes the sleeper issue of the too-targeted consumer. Laws need not always be the totality of the American way; even the smallest businesses will complete to assure customers’ right to decide.

The libertarian principle is plain: except in cases where some public interest, control of information about an individual must rest with the person himself. When the required permission is asked, he or she can sell it or trade it—or tell the bank, the search engine and the Motor Vehicle Bureau to keep their mouths shut.

Privately Held Concerns  


Congress has been paddling 20 years to get a financial-service overhaul bill, and now the canoecrashers are ready to run aground on one of the House’s most troublesome points: it’s good in press releases—“consumer privacy.” In the column alongside, Paul Gigot describes the hardball politics behind the financial reform bill’s other sticking point—the Community Reinvestment Act. Our subject here is Senator Richard Shelby’s strange idea of what, precisely, should constitute “consumer privacy” in the new world. “It’s our responsibility to identify what is out of bounds,” declared the identity confused Republican as he surfaced this phantom last spring.

Privacy concerns are a proper discussion point for the information age, but financial reform would actually end up alleviating some concerns. “Getting to a single consumer database would enable people to sell insurance, portfolio advice and checking accounts, there would be less incentive to peddle information to third parties.” Legislative reform and mergers in the financial industry were all supposed to be aimed at the same goal, using information efficiency within a single company to serve customers.

But, Mr. Shelby, that’s the point. The House passed a bill 343 to 86 to make “pretext calling” by snoops pretending to be the customer a Federal crime, plus an “opt out” that puts the burden on bank customers to tell their banks not to disclose account information to marketers. The bank lobby went along with this.
unless this deal-breaker is written into the law.

To inflict this inconvenience on Mr. J ones is weird enough; He has already volunteered to have his name on the list. Group. But even weirder is the urge to crippling a law whose whole purpose is to modernize an industry forceful forces that today chase six different companies around to get a full mix of financial services. In essence, financial products all do the same thing: lend money at interest. You want the loan so you take out a loan. You want to retire 20 years based on your present earnings, and have it. And if a computer goes up from modern man, it's "Simplify my life."

A vote last Friday is found to put Mr. Shelby’s peeve to rest. Under the current language, consumers would have an "opt out" if they don’t want their information shared.

But Mr. Shelby won’t let go, and joining his chorus are Ralph Nader, on the left, Phyllis Schlafly on the right and various gnat buzzing around the interest-group honeypot.

He claims to be responding to constituent complaints about telemarketing, not to mention a poll showing that 90% of consumers respond favorably to the word "privacy." Some smart executives could sell their information made available indiscriminately to strangers. But putting up barriers to free exchange inside a company that a customer already is chosen to do business with is a far fetched application of a sensible idea.

Mr. Shelby was a key supporter of language that would push banks to set up their insurance and securities operations as affiliates under a holding company. Now he wants to stop these affiliates from talking to each other. So his efforts have just confused the issue sounds more like a favor to Alabama bankers and insurance agents who want to" make life a lot harder for their New York competitors trying to open up local markets."

GROWING COMPATIBILITY ISSUE: COMPUTERS "THAT Tracker PRIVACY


San Francisco, March 2—The Intel Corporation recently blinked in a confrontation with Microsoft over the company's plans to ship its newest generation of microprocessors with an embedded serial number that could be used to identify a computer user worldwide that is on or off a network.

But those on each side of the dispute acknowledge that it was only an initial skirmish in a wider struggle. From computers to cellular phones to digital video players, every day devices and software programs increasingly embed telltale identifying numbers that let them interact.

Whether such digital fingerprints constitute an imminent privacy threat or are simply part of the foundation of advanced computer networking is the subject of a growing debate between the computer industry and privacy groups. At its heart is a fundamental disagreement over the role of electronic anonymity in a democratic society.

Privacy groups argue fiercely that the merger of computers and the Internet has brought about a "computer culture" in which it will be difficult to find any device that cannot be traced to the user when it is used. But a growing alliance of computer industry executives, engineers, law enforcement officials and scholars contend that absolute anonymity is not only increasingly difficult to obtain technically, but is also a threat to democratic order because of the possibility of electronic crime and terrorism.

"You already have zero privacy—get over it," Scott McNealy, chairman and chief executive of Sun Microsystems, said at a recent conference held to introduce the company's ultra high-speed chip. McNealy, who was the keynote speaker at the event, tried to interconnect virtually all types of electronic devices from computer to camcorders. Privacy advocates contend that software programs that are linked in this way could misused as networks envelop almost everyone in society in dense web of personal information, see, hear, and monitor behavior and location.

"Once information becomes available for one company, it can be pressure from other organizations to use it for their purposes," said, Lauren Weinstein, editor of Privacy Forum, an on-line journal.

This week, a programmer in Massachusetts found that identifying numbers can easily be found in word processing and spreadsheet files created with Microsoft’s popular Word and Excel programs and in the Windows 95 and 98 operating systems.

Moreover, unlike the Intel serial number, which is a computer's unique permanent number on its hard drive by Web surfers. It can also be used to identify the computer user wherever they surfed on the Internet.

Intel, the largest chip maker, had recently backed down somewhat after it was challenged by privacy advocates over the identity feature, agreeing that at least some parts of the code would be made in a way that requires the user to activate the feature.

Far from scaling back its vision, however, Intel said it was planning an even wider range of features in its chips to help companies protect copyrighted materials. It also pointed to software applications that would use the embedded number to identify users participants in electronic chat rooms on the Internet and, thereby, for example, protect children from Internet stalkers.

In achieving these goals, it would also create a universal identifier, which could be used by software applications to track computer uses wherever they surfed on the World Wide Web. And, despite the chip maker's assertions that it is working to enhance security and privacy, has led some privacy advocates to taunt Intel and accused it of a "Big Brother Inside" strategy.

They contend that by uniquely identifying each computer it will make possible for marketers and Government and law enforcement officials to track and spy on anyone connected to a computer network more closely. They also say that such a permanent identifier could be used and transmission of the data, known as "cookies," that are placed on a computer’s hard drive by Web site to track the comings and goings of Internet users.

PUTTING PRIVACY ON THE DEFENSIVE

Intel's decision to forge ahead with identity features in its chip technology may signal a turning point in the battle over privacy in the electronic age. Until now, privacy concerns have been largely a function of executive on the defensive. Now questions are being raised about whether there should be limits to privacy in an Internet age.

"I think M. Brandeis's definition of privacy was "the right to be left alone," not the right to operate in absolute secrecy," said Paul Saffo, a researcher at the Institute for the Future in Menlo Park, Calif.

Some Silicon Valley engineers and executives say that the Intel critics are being naively and have failed to understand that all computer users connected to an Internet network require identification features simply to function correctly.

Moreover, they note that identifying numbers have for more than two decades been a requirement for any computer connected to an Ethernet network. (Although still found mostly in office environments, Ethernet connections are increasingly being used for high-speed Internet Service in the home via digital telephone lines and cable modems.)

All of Apple Computer's popular iMac machines come with an Ethernet connection that has a unique permanent number installed in the factory. The number is used to identify the computer over the network.

While the Ethernet number is not broadcast over the Internet at large, it could easily be discovered by a software application like a Web browser and transmitted to a remote Web site tracking the identities of its users, a number of computer engineers said.

Moreover, they say that other kinds of network's require identifying numbers to protect against fraud. Each cellular telephone currently has two numbers: the telephone number, which can easily be changed, and an unique permanent number is permanently put in place at the factory to protect against theft or fraud.

The serial number is accessible to the cellular phone network and as cellular telephones add Internet browsing and E-mail capabilities, it will potentially have the same

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identity capability as the Intel processor serial number.

Other examples include DIVX DVD disks, which come with a serial number that permits tracking the use of each movie by a centralized network-recording system managed by the companies that sell the disks.

FEARING THE MISUSE OF ALL THOSE NUMBERS

Industry executives say that as the line between health and commerce becomes increasingly blurred, every electronic device will require some kind of identification to attach to the network.

Making sure a system is available to networks that need to pass information or to find a mobile user while at the same time de- pending on the information to those who wish to gather knowledge. And using this information, vast data bases may be an impossible task.

Privacy advocates argue that even if iso- lated numbers look harmless, they are actu- ally harbinger of a trend toward even more invasive surveillance networks.

"Whatever we can do to actually minimize the collection of personal data is good," said March Rotenberg, director of the Electronic Privacy Information Center, one of three groups trying to organize a boycott of Intel's chips.

The groups are concerned that the Government will require every new invasive hard- ware modifications to keep track of individ- uals. Already they point to the 1994 Communication Assistance for Law Enforcement Act, which requires that telephone compa- nies modify their network switches to make it easier for Government wiretaps.

Also, Federal Communications Com- mission is developing regulations that will require every cellular telephone to be able to report its precise location for "911" emer- gency calls. And groups are worried that this feature will be used as a tracking tech- nology by law enforcement officials.

The ultimate danger is that the Government will mandate that each chip have spe- cial logic added to track identifiers in cyber- space, said Vernor Vinge, a computer sci- entist at San Diego State University. "We're on a slide in that direction."

Mr. Vinge is the author of "True Names" (Tor Books, 1984), a widely cited science fic- tion novel in the early 1980's, that forecast a world in which we could track the location in computer net- works is illegal.

Intel executives insist that their chip is being used by privacy groups.

"We're going to start building security ar- chitecture into our chips, and this is the first step," said Pat Geslinger, Intel vice president and manager of systems architecture into our chips, and this is the first step," said Pat Geslinger, Intel vice president and manager of systems architecture.

The discouraging part of this is that our objective is to accomplish privacy.

That quandary—that it is almost impossible to compartmentalize information for one purpose so that it cannot be misused—lies at the heart of the argument. Moreover pro- viding privacy while at the same time offer- ing security has long been a technical and a political challenge.

"We need to find ways to distinguish be- tween security and identity," said James X. Demetriou, president of the Center for Democracy and Technology, a Washington lobbying organization.

So far the prospects are not encouraging. One technology developed at the Center for Democracy and Technology, the Center for Democracy and Technology, is inadequate for individuals to make electronic cash pay- ments anonymously in a network.

In the Chaum-designed, a user employs a different number with each organi- zation, thereby insuring that there is no universal tracking capability.

But still, Chaum's solution has been widely considered ingenious, it has failed in the marketplace. Last year, his company, Digicash Inc. based in Palo Alto, Calif., filed for bankruptcy protection.

"Privacy never seems to sell," said Bruce Schneier, a cryptographer and a computer security expert, "Those people interested in privacy don't want to pay for it."

PRIVACY ISN'T DEAD YET

But just how easy is it to make electronic cash pay- ments? It seems self-evident that information about your shoe size does not need to be as well guarded as information about tests or- dered by your doctor. But with the Federal and state mandates to develop a piecemeal approach to privacy protection, if we release information about one facet of our lives, we inad- vertently export much about the others.

During a hearing last month before Robert Bork's fitness to serve as a Supreme Court justice, a reporter found out which videotapes Mr. Bork rented. The response was the enactment of the Video Privacy Protection Act. Another law prohibits the So- cial Security Administration (but hardly anybody else) from releasing our Social Se- curity numbers. Still other laws limit what states can do with information that we pro- vide to motor vehicle departments.

Congress is now seeking to add some more privacy laws to the mix. One law drawn by Senator Patrick Leahy of Vermont, an illuminated privacy laws. The House recently endorsed a bill to prohibit banks and securities and in- surance companies owned by the same par- tner corporation from sharing med- ical information. And Congress is grappling with laws to prevent some information about our mutual-fund holdings from being sold and bought.

But with superpowerful computers and vast databases in the private sector, personal information can't be segmented in this man- ner. There are ways that some criminals can get hold of information about us—perhaps by entering a computer at a bank, or by using our credit card statements. And as we gain more information, we may become more conscious of the information we provide to the government.

A MIDDLE GROUND IN THE PRIVACY WAR?

Jim Hightower, the former agriculture commissioner of Texas, is fond of saying that "there's nothing in the middle of the road but yellow stripes and dead armadillos."

It's punchy, and has become a rallying cry of sorts for activists on all sides. But is it really useful? Amitai Etzioni, a George Washington University, thinks not. He thinks he has found a workable middle ground between the combatants in one of the fiercest fights in our high-tech society: the right of privacy.

Etzioni has carved out a place for himself over the decades as a leader in the "communitarian" movement. Communitarianism works toward a civil society that transcends both government regulation and commercial intrusion—a society where the individual's rights are protected by civil law, and the notion that "he who has the gold makes the rules" does not apply.

What does all that have to do with pri- vacy? Etzioni has written a new book, "The Limits of Privacy," that applies communitarian principles to this thorny issue.

For the most part, the debate over privacy is carried out from two sides separated by a huge ideological gap—a gap so vast that they seem to feel a need to shout just to get their message across in with a theme not often heard, that middle of the road that Hightower hates so much.

"A MIDDLE GROUND IN THE PRIVACY WAR?"

[By John Schwartz—March 29, 1999]
November 10, 1999

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sides were missing “the number one enemy—
it is a small group of corporations that have more information about us than the East German police ever had about the Germans.”

He’s right. Indeed, by recent news that both Microsoft Corp. and Intel Corp. have included identifier codes in their products that could be used to track people’s online habits: “They not only track what we are doing,” he says. “They track what we think.”

His rethinking of privacy leads him to re-
ject the notions that led to a constitutional right of privacy, best expressed in the land-
mark 1965 case Griswold v. Connecticut. In that case, Justice William O. Douglas found a right of privacy in the “penumbra,” or shadow border, of rights granted by other constitutional amendments—such as freedom of speech, freedom from unreasonable search and seizure, freedom from having troops billeted in our homes.

Etzioni scoffs at this “stretched interpreta-
tion of a curious amalgam of sundry pieces of various constitutional rights,” and says we need only look to the simpler balancing act we read daily in Fourth Amendment cases governing search and seizure, which give us privacy protection by requiring proper warrants before government can tape a phone or search a home.

“We cannot say that we will not allow the FBI under any conditions, because of a cyber attack, a virus, a way without government, to read any message.” He finds such a view “so ideological, so extreme, that somebody has to talk for a sense of balance.”

I was surprised to see, in the acknowledgments in his book, warm thanks to Marc Rotenberg, who heads the Electronic Privacy Information Center. Rotenberg is as about as dry a guy as I know, and I can’t imagine him finding much common ground with Etzioni—but Etzioni told me “Marc is among all the people in this area the most reasonable. One can talk to him.”

So I called Rotenberg, too. He said he de-
eply respects Etzioni, but can’t find much in the book to agree with. For all the talk of balance, he says, “we have invariably found that when the rights of the individual are balanced against the claims of the community, that the individual loses out.”

“We’re in the midst of a ‘privacy crisis’ in which we’ve been unable to come up with solutions, and the challenge is really the need for new business practices and new technologies are creating,” Rotenberg told me.

The more answers he suggested, it’s not to seek middle ground but to draw the lines more clearly, the way judges do in deciding cases. When a criminal defendant challenges a policeman’s pat-down search in court, Rotenberg explained, “the guy with the small plastic bag of cocaine either gets to walk or he doesn’t.” Making those lines more clear doesn’t really take you any closer to finding answers.

As you can see, this is one argument that isn’t settled. But I’m glad that Etzioni has joined the conversation—both for the trade-lines fuzzier doesn’t really take you any-
thing, or he doesn’t. Making those small plastic bag of cocaine either gets creating,” Rotenberg told me.

nity, that the individual loses out.’’

balance, he says, “we have invariably found to agree with. For all the talk of

area the most reasonable. One can talk to

that “Marc is among all the people in this

government. After 18 months, the Com-
mission will deliver a report to Con-
gress recommending the necessary leg-
sislativo protections are needed. The

Commission will have the authority to
gerather the necessary information to
reach conclusions that are balanced and fair.

Americans are genuinely concerned about individual privacy. The Privacy Commission proposed by Senator Kohl and myself will enable Congress and the public to evaluate the extent to which we should be concerned and the proper way to address those concerns. The privacy debate is multifaceted and I
encourage my colleagues to join Sena-
tor Kohl and myself in our efforts to gain a better understanding of it. Sen-
ator Kohl and I look forward to working
with all those interested in further-
ing this debate and giving Americans a greater sense of confidence in the security of their personal informa-
tion.

By Mrs. FEINSTEIN:

S. 190. A bill to require disclosure under the Freedom of Information Act regarding certain persons and records of the Japanese Imperial Army in a

poses; to the Committee on the Juri-

JAPANESE IMPERIAL ARMY DISCLOSURE ACT OF 1999

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Japa-
nese Imperial Army Disclosure Act of 1999. This legislation will require the disclosure under the Freedom of Information Act classified records and docu-
ments in the possession of the U.S. Government regarding chemical and biological experiments carried out by

J. apan during the course of the Second World War.

Let me preface my statement by making clear that none of the remarks that I will make in discussing this legis-
lation should be considered anti-Jap-
nese. I was proud to serve as the

President of the Japan Society of
Northern California and have done

all things I can to foster, promote, and develop positive relations between Japan, the United States, China, and other states of the region. The legisla-
tion I introduce today is eagerly

sought by a large number of Califor-
nians who believe that there is an ef-

fort to keep information about possible atrocities and experiments with poison gas and germ warfare from the

puc record.

One of my most important goals in the Senate is to see the development of a Paci-

c rim community that is peaceful and stable. I have worked to-

ward this goal for over twenty years. I

introduce this legislation to try to heal wounds that still remain, particularly in California’s Chinese-American community.

This legislation is needed because al-

though the Second World War ended

over fifty years ago—and with it Jap-

an’s chemical and biological weapons experimentation programs—many of the records and documents regarding Japan’s wartime activities remain classified and hidden in U.S. Govern-

ment archives and repositories. Even

worse, according to some scholars, some of these records are now being in-

adverting destroyed.

For the many U.S. Army veteran’s who were subjected to these experiments in POW camps, as well as the many Chinese and other Asian civilians who were subjected to these experiments, the time has long since passed for the full truth to come out.

According to information which was revealed at the International Military Tribunal for the Far East, starting in 1931, when the so-called “Mukden inci-
dent” provided Japan the pretext for the occupation of Manchuria, the Japa-
nese Imperial Army conducted numer-
ous chemical and biological warfare tests on Chinese civilians, Allied POWs, and possibly Japanese civilians as well.

Perhaps the most notorious of these experiments were carried out under General Ishii Shiro, a Japanese Army surgeon, who, by the late 1930’s had built a large installation in China with germ breeding facilities, testing
It is my belief that the establishment of such an Interagency Working Group is the best way to make sure that the documents which need to be declassified will be declassified, and that this process will occur in an orderly and expedient manner.

This legislation also includes exceptions which would allow the Interagency Working Group to deny release of records on the basis of: 1. Records which may unfairly invade an individual’s privacy; 2. Records which adversely affect the security or intelligence capabilities of the United States; 3. Records which might “seriously or demonstrably impair relations between the United States and a foreign government”; and, 4. Records which might contribute to the development of chemical or biological capabilities.

My purpose in introducing this legislation is to help those who were victimized by these experiments and, with the adjective “the truth shall set you free” in mind, help build a more peaceful Asian-Pacific community for the twenty-first century.

First, the declassification and release of this material will help the victims of chemical and biological warfare experimentation carried out by the Japanese Army during the Second World War, as well as their families and descendants, gain information about what occurred to them fifty years ago. If old wounds are to heal, there must be a full accounting of what happened.

Second, and perhaps just as importantly, this legislation is intended to create an environment of honest dialogue and discussion in the Asia-Pacific region, so that the countries and people of the region can move beyond the problems that have plagued us for the past fifty years. Together, we can work to build a peaceful and prosperous Asian-Pacific community in the next century.

If the countries of Asia are to build a peaceful community it is necessary that we deal fully, fairly, and honestly with the past. It is only by doing so that we can avoid repeating the mistakes of the past and build a more just world for the future.

Indeed, as Rabbi Abraham Cooper has remarked, “Since the end of World War II, and the establishment of the United Nations, the world has had the courage to face the painful look back at its World War II record; can Japan be allowed to do anything less?”

I hope that my colleagues will join me in support of this legislation.

Mr. President, I ask unanimous consent that the October 7 letter by Professor Harris and an article outlining some of the scholarly research on this issue, “Japan’s Biological Weapons: 1930-1945,” by Robert Gromer, John Powell and Burt Roling be printed in the RECORD.

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

...
President of the United States. Moreover, “sensitive” documents—as defined by archivists and FOIA officers—are at the moment being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific being destroyed. Thus, historians and concerned citizens are being denied factual evidence of the atrocities committed in the War In The Pacific.
In his book, _The Pacific War_ Professor Lenaga Saburo added a few new details about Unit 731 and described fatal vivisection experiments at Kyushu Imperial University on downed World War II airmen [3, pp. 188-90].

The biological warfare project began shortly after the Manchurian Incident in 1931, when Japan occupied China’s Northeast provices. The head of these activities, Ishii Shiro, persuaded his superiors that microbes could be an inexpensive weapon potentially capable of producing enormous casualties if used in the wrong manner [2, pp. 102-107]. Ishii, who finally rose to the rank of lieutenant general, built a large, self-contained installation with sophisticated germ- and insect-breeding facilities, a prison for human experimentees, testing grounds, an arsenal for making germ bombs, an airfield, its own special planes and a crematorium for the human victims.

When Soviet tanks crossed the Siberian-Manchurian border at midnight on August 8, 1945, Japan was less than a week away from unconditional surrender. In those few days of grace the Japaneen destroyed their biological warfare installations in China, killed the remaining experimentees ([4], p. 198), and shipped out most of their personnel and some of the more valuable equipment to South Korea [1, pp. 43, 125]. In the days that followed, some equipment was shipped into Japan are confirmed by American documents which reveal that slides, laboratory records and case histories of experimentees over many years were successfully transported to Jap [4].

A “top secret” cable from Tokyo to Washington on May 6, 1947, described some of the information being secured.

> “Statements obtained from Japenese here confirm statements of USSR prisoners. . . . Experiments on humans were conducted by three Japanese peaceably induced by field trials against Chinese took place. . . . scope of program indicated by report that 400 kilo grams [880 lbs.] of dried anthrax organisms destroyed in August 1945. . . . Relevant statements by Ishii indicate he had superior (possibly general staff) who . . . authorized the program. Ishii states that it guaranteed immunity from ‘war crimes’ in documentary form for himself, superiors and subordinates, he can describe program in detail. Ishii states that it has extensive theoretical and practical use of BW on defense and offense, backed by some research on best agents to employ in various areas of cold war, and the use of BW in cold climates” [5, 6].

A top secret Tokyo headquarters “memo-randum for the record” (also dated May 6), gave more details: “USSSR interest in Japenese BW personnel arises from interrogations of two captured Japanese, who were identified by three anthrax organisms released in Manchuria. . . . The possible use of such organisms for BW purposes was to obtain additional material clarifying reports already submitted by the Japenese, to examine human pathological material and advice that might be drawn from various BW installations, and to obtain protocols necessary for understanding the significance of the pathological material.

Ishii and his colleagues were cooperating with German scientists and medical doctors at Nuremberg for offenses which included experiments on human beings which resulted in the suffering and death of most of those experimented upon” [10].

Hubbert raised the possibility that the whole thing might leak out if the Soviets were to bring it up in cross-examining major Japanese war criminals at the Tokyo trial and cautioned: “It should be kept in mind that there is a remote possibility that independent investigation conducted by the Societs in the Mukden area may have disclosed evidence that the Japanese were committed to experimental purposes of a BW nature and that they lost their lives as a result of these experiments.”

Despite these risks, Hubbert concurred with the Wetter-Stubblefield recommendation that the issue be kept secret and that the Japenese biological warfare personnel be granted immunity in return for cooperation. He suggested some changes for the final position paper, including the following casuistry: “The data on hand . . . does not appear sufficient at this time to constitute a basis for sustaining a war crimes charge against Ishii and/or his associates.”

The Japanese BW group is the only known source of data from scientifically controlled experiments showing the direct effect of BW agents on man. In the past it was possible to use information on the effects of BW agents on man from data obtained through animal experimentation. Such evaluation is inconclusive and far less complete than results obtained from certain types of human experimentation.

Wetter and Stubblefield also stated that the Soviet Union was believed to be in posession of “only a small portion of this technical information” and that since “any ‘war crimes’ trial would completely reveal such data to all nations, it is felt that such publicity must be avoided in the interests of defense and national security as to far outweigh any military advantage this information might be of” [5].

They emphasized that the knowledge gained from Japanese BW experiments “will be of great value to the U.S. BW research program” and added: “The value to U.S. of Japenese BW data is of such importance that national security must be weighed against the value accruing from war crimes prosecution.”

A July 15, 1945 response to the Wetter-Stubblefield memo by Cecil F. Hubbert, a member of the State, War, Navy Coordinating Committee, agreed with its recommendations but warned of potential complications, noting that they were to obtain additional material clarifying reports already submitted by the Japanese, to examine human pathological material and advice that might be drawn from various BW installations, and to obtain protocols necessary for understanding the significance of the pathological material.

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committee for the Far East, are in agreement that the Japanese BW group should be informed that this Government would retain in intelligence channels all information given to the Soviet Union. This decision was made with full consideration of and in spite of the following:

(a) That its practical effect is that this Government is in pursuit of members of the Japanese BW group for War Crimes of a BW nature.

(b) That the Soviets may be independent investigation disclose evidence tending to establish or connect Japanese BW activities with a war crime, which evidence the Soviets may indicate at the Inter national Military Trial now pending in Tokyo.

(c) That there is a remote possibility that the evidence thus discovered by the Soviets would include evidence that American prisoners of war were used for experimental purposes by the Japanese BW group.

In the intervening years the evidence that captured American soldiers were among the human guinea pigs used by Ishii in his lethal germ experiments has been more closely examined in the tops echelons of the U.S. government.

A “confidential” March 13, 1956, Federal Bureau of Investigation internal memorandum, addressed to FBI’s “Director,” states, “There is no evidence that U.S. citizens were used as test subjects for biological warfare agents or alien Bacteria, viruses, or fungi.”

On March 31, 1942, the Nationalist govern ment stated that a follow-up investigation by Dr. Robert K.S. Lim, Director of the Chinese Research Council, and Dr. R. Politzer, internationally known epidemiologist and former member of the League of Nations anti-Epidemic Commission, who was then on a war-time assignment to the Chinese government, had confirmed the Japanese charges.

Western reaction to the Chinese charges was mixed. Harrison Forman of the New York Times, and Dr. Thomas Parran, Jr., the U.S. Surgeon-General, thought the Chinese had made a case. But U.S. Ambassador Clark Kerr, was uncertain. Dr. Theodor Rosebury, the well-known academic Commission, who was then on a war-time assignment to the United States, stated that a follow-up investigation disclose evidence tending to establish or connect Japanese BW activities with a war crime, which evidence the Soviets may indicate at the Inter national Military Trial now pending in Tokyo.

At the December 1949 Soviet trial at Tokyo, it was dismissed as “propaganda.”

General Headquarters, “They took a man on a train, he disappeared, and another man replaced him,” said one Soviet. "We did not investigate in a scientific way, but the observed facts aroused suspicion. Some- thing was seen to come out of a Japanese plane. Later, there was a heavy infection of fleas and 99 people came down with bubonic plague, with all but one dying. Yet there were no fleas in the area. Thereafter, additionally, outbreaks of plague in the human population follow an epidemic in the rat popula- tion.

On October 27, 1940, plague was dropped on a city in Hunan Province. Instead of the usual cargo of bombs, the plane dropped grains of wheat and rice, pieces of paper and cotton wadding, wrapped in the city’s East Gate District. During the next three weeks six people were the streets died, all with symptoms suggesting plague. The Chinese authorities took a new host to infect and thus solve the problem, Chinese women con- ducted to the laboratories, and other prisoners . . . were tied facing stakes, five to ten metres apart. The prisoners’ heads were covered with metal helmets, and their bodies with screens, which were made and made to freeze with the help of an artificial current of air. This was then introduced into the laboratories, and the bodies were later examined.

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It is possible that some of Ishii’s attacks went unnoticed, either because they were failures or because the resulting outbreaks of disease were attributed to natural causes by the Chinese. However, some were recognized.

Official archives of the People’s Republic of China list 11 cities as subjected to biological warfare attacks, while the number of victims of artificially disseminated plague alone is placed at approximately 700 between 1940 and 1944 [12, p. 11].

A few of the charges allegations received international press coverage at the time. The Chinese Nationalists claimed that on October 27, 1940, plague was dropped on Ningbo, a city near Shanghai. The incident led to the subsequent persecution of thousands of people in the city. The Chinese Nationalists claimed that on October 27, 1940, plague was dropped on Ningbo, a city near Shanghai. The incident led to the subsequent persecution of thousands of people in the city. The Chinese Nationalists claimed that on October 27, 1940, plague was dropped on Ningbo, a city near Shanghai. The incident led to the subsequent persecution of thousands of people in the city. The Chinese Nationalists claimed that on October 27, 1940, plague was dropped on Ningbo, a city near Shanghai. The incident led to the subsequent persecution of thousands of people in the city. The Chinese Nationalists claimed that on October 27, 1940, plague was dropped on Ningbo, a city near Shanghai. The incident led to the subsequent persecution of thousands of people in the city.
Several classification papers indicate a difference of opinion on how to deal with the question of immunity. The War Department favors, according to Ishii’s demands, for immunity in documentary form. The State Department, however, cautioned against putting anything in writing which might later cause a problem. The Wish to keep the A Japanese were told the information would be kept in classified intelligence channels that would be sufficient protection. In any event, a satisfactory arrangement apparently was worked out as none of the biological warfare personnel was subsequently charged with war crimes and the United States obtained full details of Japan’s program.

The Japanese experts who, Dr. Hill told, would “be spared embarrassment,” not only used Japanese personnel in experiments to determine lethal dosages but on occasion—in their pursuit of exact scientific information—made certain that the experiment did not survive. A group would be brought down with a disease and, as the infection developed, individuals would be selected out of the group and killed. Autopsies were performed, so that the progress of the disease could be ascertained at various times.

The war was fought across a broad front and is now understood to have involved the use of biological warfare as well. The United States paid a heavy price for its entry into, and withdrawal from, the conflict. The civilian populace paid a heavy price in terms of property, leisure, and personal freedom. The military paid in terms of men and matériel.

General Kitano Masaji and Dr. Kasahara Yukio described the “sacrificing” of a human experimentee when he apparently was recovering from an attack of tick encephalitis:

“Mouse brain suspension...was injected...and produced symptoms after an incubation period of three days. Highest temperature was 39.8°C. This subject was sacrificed when fever was subsiding, about the 12th day.”

Clearly, U.S. biological warfare experts recognized the practice. An intelligence report prepared for U.S. officials describing their work on hemorrhagic fever:

“Subsequent children were produced either by blood or blood-free extracts of liver, spleen or kidney derived from individuals sacrificed at various times during the course of the disease.”

There is a difference of opinion among observers as to whether the United States and China more properly gave up or developed biological warfare. Some believe the latter is a matter of the past. However, its history has been so replete with deception that one cannot be sure of anything. The story did not end with Japan’s use of biological warfare against China; there are additional chapters to be written.

Available documents do not reveal whether anyone knows the names of any of the thousands of Chinese Mongolians, Russians, “half-breeds” and Americans whose lives were destroyed by prolonged exposure to X-rays or by such grotesqueries as being pumped full of horse blood; having their livers destroyed by prolonged exposure to X-rays or being subjected to vivisection.

It is known, however, that because of the “ruthlessness” of its weapons, the United States, General Ishii and many of the top members of Unit 731 lived out their full lives, suffering only the natural afflictions of old age. A February 1945 letter from General Ishii, stating he enjoyed exceptional good health and at the time of writing were living in quiet retirement.

GENERAL HEADQUARTERS, SUPREME COMMANDER FOR THE ALLIED POWERS,

BRIEF FOR THE CHIEF OF STAFF

1. This has to do with Russian requests for transfer of the former Japanese expert in Bacteriological Warfare.

2. The United States has primary interest, has already interrogated this man and his information is held by the U.S. Chemical Corps classified as TOP SECRET.

3. The Russian has made several attempts to get at this man. We have stalled. He now hopes to make a move. We should not suddenly claim the Japanese expert as a war criminal.

4. Joint Chiefs of Staff direct that this not be done but concur in a SCAP controlled interrogation requiring expert assistance not available in FIE.

5. This memorandum recommends:

a. Radio to WD for two experts.

b. Letter to USSR refusing to turn over Japanese expert.

C. Check with International Prosecution Section initiating action on the JCS approved interrogations.

A JUDGE’S VIEW

(By Bert V.A. Röling)

As one of the judges in the International Military Tribunal for the Far East, it is a bitter experience for me to be informed now that centrally ordered Japanese war criminals were allowed to remain free. The only regret I have is that a key secret from the Court by the U.S. government. This Japanese war criminality consisted, in part, of using human beings, prisoners of war, “guinea pigs” in an endeavor to test the impact of specific biological warfare weapons. Research on and production of these weapons was not a stopgap at that time. The Peace conference at Geneva, 1925, forbade their use only in battle. To use human beings for biological experiments, causing the death of at least 5,000 prisoners of war, was among the gravest war crimes.

The first information about these Japanese atrocities became known through the trial at Khabarovsk, December 25 to 31, 1949. I remember reading about it and not believing its contents. I could not imagine that there never happened in the Court in Tokyo being informed. According to this point about the book, it was transmitted to the chief prosecutor, Joseph B. Keenan. But some of the information was incorrect. The book mentions that the Military Tribunal was informed of the wicked experiments done by the Tama division in Nanking, and that it requested the American prosecution to submit more detailed proof [1, p. 443]. Such Court procedures would not have been in conformity with Anglo-Saxon practice. It is more likely that the information was given to the chief prosecutor.

A further feature of the Khabarovsk book is the strange character of the confessions made by the accused. Some are quoted as saying that they acted upon the special secret orders of the Japanese emperor [1, pp. 10, 33]. Such Court procedures would have been impossible about the emperor. But his role is remarkable in that he may not make decisions; he has only to confirm decisions of the government and its officials is “in the name of the emperor.” But his role is that he may not make decisions; he has only to confirm decisions of the government and its officials. It is evident to others that he is driven by the government and the small circle around the throne. Titus stresses the...
"ratification function" of the reached consensus [2, p. 321]. It is clear that this imperative confirmation gives a decision an exceptional authority: the command of the emperor, however, is one which the emperor alone has a kind of loud-speaker function. He is heard, and obeyed, but he speaks only on the recommendation of the government. Very often the emperor acts in a personal manner. One such occasion was his criticism of the behavior of the Japanese army in Manchuria (the so-called Manchurian Incident). The Emperor took a role in connection with the capitulation at the end of World War II. Despite the atomic bombs and the Soviet Union's entry into the war, the cabinet was divided and could not come to a decision because the military members refused to surrender. Their motivation: the existence of the imperial system was not sufficiently guaranteed. In a very exceptional move, the emperor was brought in to make the decision. He took the risk, and decided for immediate capitulation.

Thus the emphasis on the personal secret involvement of the emperor in the Khabarovsk trial account make it appear unnecessary to supply the setup that may be perceived as a source of arguments in favor of indicting the emperor. I remember at that time, writing to show the danger of national postscript. I may be accused of having overlooked the importance of political reasons, and giving the Khabarovsk trial as an example. I must state now that the Japanese misbehavior as described in my previous writing, has been confirmed by the recently disclosed American documents.

Immunity from prosecution was granted in exchange for Japanese scientific findings concerning biological weapons, based on disgusting criminal research on human beings. We learn from these documents that it was considered on almost for nothing. Thus, information was obtained that had cost millions of dollars and thousands of human lives. The American authorities were worrying only about the prospect of the human outcry in the United States, which surely would have taken place if the American people had been informed about this "deal."

The security that surrounds the military makes it possible for military behavior to deviate considerably from the prevailing public standard, but it is a danger to society. The military is regarded with respect, will it at-

END NOTES
1. Materials on the Trial of Former Serv-

icemen of the Japanese Army Charged with 
Manufacturing and Employing Bacterio-

This volume is a summary of the transcript of the Soviet trial in Khabarovsk, Siberia, Dec. 20-25, 1949, of 12 captured Japanese Army personnel charged with participation in the biological warfare program. For a later reference to the program see Outline History of Science and Technology in Japan, ("Nihon Kagaku Gijutsushi Taisiekii"), Vol. 25 (Medicine 2, 1967), pp. 309-10. This account states that the biological warfare program was organized under the "special research on bacteria, members of the epidemic-prevention section shall be sent to Manchuria." It also stated that little was known about the war since all records were said to have been destroyed and that the only evidence that was produ-

2. Lenaga Saburo, The Pacific War (New
York: Pantheon, 1997). A longer work that says Japan in the war.

3. Although most U.S. documents and the Soviet trial summary give Ishii credit for originating the biological warfare program, it is possible that he was only the chosen instrument. There are references indicating interest in the program at higher levels. The "staff officer" of Ishii's Operations Division was Lieutenant Colonel Miyata, who in real fact was a friend of General Miyata's who is said to have been in court. It is stated that Ishii had avoided prosecution by turning over his materials to the U.S. authorities. I have not seen this volume and am indebted to John Dower, of the University of Wisconsin, who supplied the citation.

4. Ishii Hidemasa, Operations of the Japa-

nese Biological Warfare Forces and their Consequences (Tokyo: Kyoiku Chosai Shuppan, 1951). This July 15, 1947, memo is addressed to John Dower, of the University of Wisconsin, who supplied the citation.

5. "A Bruise—Terror of the 731 Corps," Tokyo Broadcasting System television docu-

mentary, produced by Yoshinaga Haruko, shown Nov. 2, 1976. It has also been screened in Europe but not in the United States. However, the Washington Post (Nov. 19, 1976) car-

ried a lengthy news story describing the film. In an interview with Post reporter John Saar, Yoshinaga said five former members of the biological warfare unit told him that they were promised complete protection in return for cooperation with U.S. authorities. "All the important documents were given to the Unit." His report is in substantial agreement with the records of the People's Republic in Beij-


7. "Feathers as Carriers of Biological War-

fare Agents," "Bacterial Warfare Department, Chemical Corps So and C Divisions (Dec. 15, 1950)."

8. Leroy D. Fothergill, M.D., "Biological 

Warfare: Nature, Consequences," Texas State Journal of Medicine (May 6, 1947). This July 15, 1947, memo is addressed to John Dower, of the University of Wisconsin, who supplied the citation.

9. "Songo-Epidemic Hemorrhagic Fever, this article is based, in part, on an article by the author in Bulletin of Concerned Asian Scholars (P.O. Box W, Chalfont, MA 01239), 12:4, pp. 2-15.

By Mr. SHELBY (for himself and 
Mr. BRYAN):
S. 1903. A bill to amend the privacy provisions of the Gramm-Leach-Bliley Act; to the Committee on Banking, Housing, and Urban Affairs.

CONSUMER'S RIGHT TO FINANCIAL PRIVACY ACT

Mr. SHELBY. Mr. President, I rise today to offer the "Consumer's Right to Financial Privacy Act" for myself and Senator BRYAN. This bill would address the significant deficiencies in the Financial Services Modernization Act passed by this very body last week. Our bill would provide that consumers have (1) notice of the categories...
of nonpublic personal information that institutions collect, as well as the practices and policies of that institution with respect to disclosing nonpublic information; (2) access to the nonpublic personal information collected and/or maintained by the institution, provided that such provision would require that this federal law not preempt stronger state privacy laws. This bill is drafted largely after the amendment Senator BRYAN and I offered in the Conference on Financial Services Modernization, but failed to get adopted due to the Conference’s rush to pass a financial modernization bill, no matter what the cost.

I know that think that opt-in is extreme, but I have to tell you that is what the American people want. Over the past year I have learned a great deal about the activities of institutions sharing sensitive personal information. Many may not be aware, but it has become a common practice for state department of motor vehicles to sell the drivers license information, including name, height, weight, social security number, vehicle identification number, motor vehicle registration, and more. Some states even sold the digital photo image of each driver’s license.

I was not aware of this practice going on. When I learned about it and studied it a little closer, I found several groups who were opposed to this practice. One such group was Eagle Forum. Another such group was the ACLU. Still another group was the Free Congress Foundation. Before I knew it, there was an ad hoc coalition of groups not only supporting the issue of driver’s license privacy, but demanding it.

Thanks to the hard work of these groups, I was able to include an opt-in provision for people applying for drivers license and credit cards. This provision would require that the financial institution must receive the affirmative consent of the consumer, which is why I offered an amendment to the Financial Services Modernization bill, but failed to get adopted due to the Conference’s rush to pass a financial modernization bill, no matter what the cost.

Now my basic question is this, why would anyone oppose this bill? Only if you believe the financial services industry cannot make money by doing business above the table and on the level for everyone to see in the “sunshine” if you will. If you believe that you can make money only by deceiving their customers or leaving those customers in the dark, then maybe you should oppose this bill. I do not subscribe to such a belief.

Industry will tell you that if they are required to keep financial privacy, consumers will not, and therefore business will shut down. What does that tell you that consumers won’t choose to opt-in? It means people don’t want their information shared. If that is such a problem, it seems to me the business would spend more time educating the consumer as to the benefits of information sharing. That is where the burden to convince the consumer to buy the product should be—on the business.

During the financial modernization debate, the financial industry, along with Citigroup communicated to Congress that they would not be able to operate or function appropriately with an opt-in requirement. I find that very difficult to believe. For example, during 1995, Citibank signed an agreement with their German affiliates in 1995 affording German citizens the opportunity to tell Citibank “no,” they did not want their personal data shared with third parties. I have a copy of the contract to prove it.

Entitled, Agreement on “Interterritorial Data Protection” one can see this is an agreement on the sharing of personal information between Citibank (South Dakota), referred to in the document as CNA, and its German affiliates. On page two paragraph 4, entitled, Use of Subcontractors, Transmission of Data to Third Parties, number 2 reads:

For marketing purposes, the transfer of personal data may be provided by the Card Service Companies (that is Citicorp of Germany and Citicorp Card Operations of Germany) is prohibited, except in those cases where such personal data is transferred to affiliated companies engaged in banking business in order to market financial services; the transfer of such data beyond the aforementioned scope shall require the Card Service Companies’ express approval. Such approval is limited to the scope of the Card Customers’ consent as obtained on the application form.

That ladies and gentlemen, is an option to operate in Germany, by none other than Citigroup, the number one proponent of financial modernization. Now if they can offer financial privacy to individuals in Germany, why on God’s green earth can’t they agree to an opt-in here in America? Do Germans have special rights over Americans? I should hope not.

Mr. President, simply put, this bill is what the American people want. It is workable and proves in the Citigroup agreement. The truth is that the American people do not understand the intricacies of banking law or securities regulation. They probably do not know or care much about affiliates or operating subsidiaries. What I do know, is that if you walked outside and polled people from New York City to Los Angeles, CA, and everywhere in between, they would not only understand financial privacy, 90 percent of them would demand financial privacy and the ability to tell an institution “no.”

Mr. President, in passing the financial modernization bill, Congress gave mammoth financial services companies significant expanded powers and unprecedented ability to collect, share, buy and sell a consumers nonpublic personal information. During the debate, many members promised they would address privacy, but only in a separate bill at a later time. Well, Mr. President, the time is now and the bill is the “Consumer’s Right to Financial Privacy Act.”

The financial industry may have won the battle by keeping stronger financial privacy provisions out of the financial modernization bill. But I assure you they have not won the war. They cannot win the war on financial privacy because the American people just won’t allow it.

Mr. President, I ask unanimous consent that the agreement on “International Data Protection” be printed in the RECORD.

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

AGREEMENT ON INTERTERRITORIAL DATA PROTECTION
BY AND BETWEEN
1. Citicorp Kartenservice GmbH, Wilhelm-Leuschner-Str. 32, 60329 Frankfurt/M, Germany (CKS)
2. CIC Card Operations GmbH, Bethemeier Straße 118, 46529 Northorn, Germany (CCO)
3. Citibank (South Dakota), N.A., Attn.: Office of the President, 701 E. 60th Street North, Sioux Falls, South Dakota 57117 (CNA)
4. Citibank Privatkunden AG, Kasernenstraße 10, 40213 Düsseldorf, Germany (CIP)

RECIPI
1. CIP has unrestricted authority to engage in banking transactions. As a license of VISA International, CIP issues the Citibank Visa Card’. Additionally, since July 1st, 1995, CIP has been cooperating with the Deutsche Bahn AG concerning the “DB/Citibank BahnCard” with a cash-free payment function—hereinafter referred to as “DB/Citibank BahnCard”—on the basis of a Co-Branding Agreement entered into between Deutsche Bahn AG and CIP on November 18th, 1994. After the conclusion of the Agreement, the co-branding business was extended to include the issuance of the DB/Citibank BahnCard without a cash-free payment function, known as BahnCard “pure”.
2. CIP transferred to CKS the operations of the Citibank Visa card and all related accounts, including accounting and electronic data processing, on the basis of the terms of a Service Agreement (non-gratuitous contract for services rendered). The Service Agreement was concluded as of June 1, 1989 and November 30, 1989. Details are contained in the “CKS Service Agreement.”
Agreement", according to which CKS performs for CIP all services pertaining to the Citibank Visa card business. Concurrent with the application for a Citibank Visa Card, Citibank Visa Card customers agree to the transfer of their personal data to CKS and to those companies entrusted by CKS with such data processing.

3. In the "BahnCard Service Agreement". Concurrent with the application for issuing a DB/Citibank BahnCard, the BahnCard customers agree to the transfer of their personal data to CCO and to those companies entrusted by CCO with such data processing.

4. On the basis of a Service Agreement dated April 1, 1995, CIP transferred the entire operations of the DB/Citibank BahnCard business, including data processing and accounting, to the Card Service Companies. Details are contained in the "BahnCard Service Agreement". Concurrent with the application to make inquiries to CNA about the customers' data for purposes other than described above requires the Card Service Companies' express consent.

5. Due to reasons of efficiency, service and centralization, the Card Service Companies have entrusted CNA with the processing of the Citibank Visa card business and of the DB/Citibank BahnCard business as of July 1, 1995. In light of the considerations described above for the Card Service Companies as principal—and CNA as contractors—concluded the "CNA Service Agreement", to which CIP expressly consented.

6. The performance of the CNA Service Agreement requires the Card Service Companies to transfer the personal data of the Citibank Visa card customers and the DB/ Citibank BahnCard customers—hereinafter collectively referred to as "Card Customers"—to CNA and further requires CNA to process such data.

In order to protect the Card Customers' rights with respect to both the data protection law, as well as the banking secrecy, and in order to comply with the banking supervisory and data protection requirements.

The contractual parties agree and covenant as follows:

§ 1 BASIC PRINCIPLES

The parties hereto undertake to safeguard the Card Customers' right to protection against unauthorized capture, storage and use of their personal data and their informational self-determination. The scope of such protection shall be governed by the standards as laid down in the German Federal Data Protection Law (Bundesdatenschutzgesetz, abbreviated to "BDSG"). The parties hereto additionally agree to comply with the banking secrecy regulations.

§ 2 INSTRUCTIONS OF THE CARD SERVICE COMPANIES

1. CNA shall process the data provided by the Card Service Companies solely in accordance with the Card Service Companies' instructions and rules, and the provisions contained in this Agreement. CNA undertakes to process and use the data only for the purpose for which the data have been provided by the Card Service Companies to CNA, said purposes including those as described in the CNA Service Agreement. The use of such data for purposes other than as described above requires the Card Service Companies' express written consent.

2. At any time, the Card Service Companies may require CNA to provide them with a list of the CNA agents supervised unimpeded access to the extent necessary to accomplish the inspection and review of all data processing facilities, and in particular with the data protection law as well as the banking secrecy regulations. CNA shall provide the agent supervised unimpeded access to the extent necessary to accomplish the inspection and review of all data processing facilities

At regular intervals, an (joint) agent appointed by the Card Service Companies shall verify whether CNA complies with the terms and conditions and in particular with the data protection law as well as the banking secrecy regulations. CNA agrees that an (joint) agent supervised unimpeded access to the extent necessary to accomplish the inspection and review of all data processing facilities, and in the banking secrecy regulations.

CNA undertakes to implement suitable measures to prevent the unauthorized use of the data transferred by the Card Service Companies in a fashion which is consistent with the provisions of this Agreement. CNA Operations shall provide the agent with all such information as deemed necessary to perform this inspection function.

§ 4 USE OF SUBCONTRACTORS, TRANSMISSION OF DATA TO THIRD PARTIES

1. CNA may not appoint non-affiliated third parties, in particular subcontractors, to perform and fulfill CNA's commitments and obligations under this Agreement.

2. For marketing purposes, the transfer of personal data to third parties provided by the Card Service Companies is prohibited, except in those cases where such personal data is transferred to affiliated companies engaged in the banking business in order to market financial services; the transfer of such data beyond the aforementioned scope to third parties shall require the Card Service Companies' express approval. Such approval is limited to the scope of the Card Customer's consent obtained on the application form. The personal data of customers having obtained a BahnCard "pure" may only be used or transferred for BahnCard marketing purposes. CNA and the Card Service Companies undertake to institute and maintain the following data protection measures:

a. Access control of persons

CNA shall implement suitable measures in order to prevent unauthorized persons from gaining access to the data processing equipment where the data transferred by the Card Service Companies are processed. This shall be accomplished by:

1. Establishing security areas;
2. Protection and restriction of access paths;
3. Securing the decentralized data processing equipment and personal computers;
4. Establishing authorizations for employees and third parties, including the respective documentation;
5. Identification of the persons having access authority;
6. Regulations on key-codes;
7. Restriction on keys;
8. Code card passes;
9. Visitors books;
10. Time recording equipment;
11. Security alarm system or other appropriate security measures.

2. Data media control

CNA undertake to implement suitable measures to prevent the unauthorized reading, copying, alteration or removal of the data media used by CNA and containing personal data of the Card Customers. This shall be accomplished by:

a. Designating the areas in which data media may/must be located;

b. Designating the persons in such areas who are authorized to remove data media;

c. Granting the removal of data media;

d. Securing the areas in which data media are located;

e. Release of data media to only authorized persons;

f. Control of files, controlled and documented destruction of data media;

g. Policies controlling the production of back-up copies.

3. Data memory control

CNA undertakes to implement suitable measures to prevent unauthorized input into the memory and the unauthorized reading, alteration or deletion of the stored data on Card Customers.

This shall be accomplished by:

a. Allocation of individual terminals and/or terminal users, identification characteristics exclusive to specific functions;

e. Evaluation of records.

5. Personnel control

On request, CNA shall provide the Card Service Companies with a list of the CNA employees entrusted with processing the personal data transferred by the Card Service Companies, together with a description of their access rights.

6. Access control to data

CNA commits that the persons entitled to use CNA's data processing system are only able to access the data within the scope and to the extent covered by the respective access permission (authorization).

This shall be accomplished by:

a. Allocation of individual terminals and/or terminal users, identification characteristics exclusive to specific functions;

b. Functional and/or time-restricted use of terminals and/or terminal users, and identification characteristics;

c. Persons with function authorization codes (direct access, batch processing) access work areas;

d. Electronic verification of authorization;

e. Evaluation of records.

7. Transmission control

CNA shall be obligated to enable the verification and tracing of the locations designations to which the Card Customers' data are transferred by utilization of CNA's data communication equipment/ devices. This shall be accomplished by:

a. Documentation of the retrieval and transmission programs;
b. Documentation of the remote locations/destinations to which a transmission path (logical path).

8. Input control
CNA shall provide for the retrospective ability as well as the ability to determine the time and the point of the Card Customers’ data entry into CNA’s data processing system.
This shall be accomplished by:

a. Procedures to ensure awareness of the Card Customers’ data entry into CNA’s data processing system.
b. Restricting transmission of non-authorized inputs.

c. Architectural barriers to limit access to the data in the input server.

9. Instructional control
The Card Customers’ data transferred by the Card Service Companies to CNA may only be processed in accordance with instructions of the Card Service Companies. This shall be accomplished by:

a. Binding policies and procedures for CNA employees, subject to the Card Service Companies’ prior approval of such procedures and policies.
b. Upon request, access will be granted to those Card Service Companies’ employees and agents who shall be responsible for monitoring CNA’s compliance with this Agreement (c.f. §3 hereof.)

10. Transport control
CNA and the Card Service Companies shall implement suitable measures to prevent the Card Customers’ personal data from being read, copied, altered or deleted by unauthorized persons during the transmission thereof or during the transfer of the data media. This shall be accomplished by:

a. Encryption of the data for on-line transmission, or transport by means of data carriers, (tapes and cartridges).
b. Monitoring of the completeness and correctness of the transfer of data (end-to-end check).

11. Organization control
CNA shall maintain its internal organization in a manner that meets the requirements of this Agreement. This shall be accomplished by:

a. Internal CNA policies and procedures, guidelines, work instructions, process descriptions, and regulations for programming, testing, and release, as well as the Card Service Companies’ own purposes, and such data are transferred by the Card Service Companies to CNA (who are required to respond) as to: the personal data stored at the time of the transfer, the data medium used in such transfer, the date and time of transfer, the recipient of the data, the purpose of storage; and the persons and locations/destinations to which such data are transferred on a regular basis.

The requested information shall generally be provided in writing.

2. The Card Service Companies shall honour the concerned person’s request to correct his personal data at any time, provided that the stored data are incorrect. The same shall apply to the Card Service Companies.

3. The concerned person may claim from the responsible Card Service Companies the deletion or blocking of any data stored at the Card Service Companies and transferred by the Card Service Companies to CNA, in the event that: such storage is prohibited by law; the data in question relate to information about health criminal actions, violations of the public order, or religious or political opinions, and its truth/correctness cannot be proved by the Card Service Companies; and such data are processed to serve Card Service Companies’ interests, and it is no longer necessary to serve the purpose of the data storage under the agreement with the respective Card Customers.

Notwithstanding the foregoing, the parties hereto submit to the provisions of § 35 of the German Federal Data Protection Law (BDSG), and agree to be familiar with such provisions.

4. The concerned person may demand that the responsible Card Service Companies block his or her personal data, if he or she contests the correct nature thereof and if it is not possible to determine whether such data is correct or incorrect. This shall also apply to such data stored by CNA.

5. If CIP, the Card Service Companies or CNA should violate the data protection or banking secrecy regulations, the person concerned shall be entitled to claim damages caused and incurred thereby as provided in the German Federal Data Protection Law (BDSG). CIP’s and the Card Service Companies’ liability shall moreover extend to those claims arising from breach of this Agreement and asserted against CNA and/or its employees in performance of this Agreement.

6. CNA acknowledges the obligation assumed by CIP and the Card Service Companies towards the concerned person, and undertakes to comply with all Card Service Companies’ instructions concerning such person. The concerned person may also directly assert claims against CNA and file an action at CNA’s applicable place of jurisdiction.

§7 CONFIDENTIALITY OBLIGATION
CNA shall impose a confidentiality obligation on those employees entrusted with processing the personal data transferred by the Card Service Companies. CNA shall further ensure suitable measures to prevent the banking and data secrecy regulations and document such employees’ obligation in writing. Upon request, CNA shall provide the Card Service Companies with satisfactory evidence of compliance with this provision.

§8 RIGHTS OF CONCERNED PERSONS
1. At any time, Card Customers whose data are transferred by CIP to the Card Service Companies, and further transferred by the Card Service Companies to CNA, shall be entitled to make inquiries to CNA (who are required to respond) as to: the personal data stored at the time of the transfer, the data medium used in such transfer, the date and time of transfer, the recipient of the data, the purpose of storage; and the persons and locations/destinations to which such data are transferred on a regular basis.

The requested information shall generally be provided in writing.

2. The Card Service Companies and CNA shall undertake to adhere to all principles of proper accounting practice applicable in Germany for computer-aided processes and the auditing thereof, in particular the provisions of UStG.

3. The Card Service Companies shall, upon request, make available the following information: the personal data storedPE
CNA, the date and time of processing of such data, the processing purpose, the recipient of the data, and the persons responsible for the processing thereof. CNA shall acknowledge this information in writing.

4. The remote processing of the data shall be subject to the internal audit department of CIP and the Card Service Companies. CNA agrees to cooperate with the internal auditors of CIP and the Card Service Companies, who shall have the right to inspect the files of CNA’s internal auditors, insofar as they relate to data files transferred by the Card Service Companies to CNA. The internal auditors of the Card Service Companies and of CNA shall conduct audits of CNA as required by duly authorized supervisory authorities.

5. In the event that CIP, the Card Service Companies and CNA are involved in the performance of an agreement, the parties hereto shall agree on a joint representation by the supervisory authorities of both parties.

6. The Card Service Companies and CNA shall undertake to allow the inclusion of CNA in audits in accordance with the provisions of §44 of the Banking Law (Kreditwesengesetz abgew. UmgG) and §5 of the Data Protection Law (BDSG) and any other legislation.

7. The Card Service Companies and CNA shall undertake to allow the requirements for interterritorial remote data processing in bank accounting as set forth in the letter of the Federal Authority for the Supervision of Banks dated October 16, 1992. This letter is incorporated by reference and forms an integral part of this Agreement.

§12 INDEMNIFICATION CLAIM
1. CNA shall indemnify the Card Customers, the Card Service Companies, and any other persons or their nominees/agents for any claims of damages asserted by the Card Customers, and resulting from CNA’s incompliance with the terms and conditions of this Agreement.

2. CNA shall indemnify the Card Customers, the Card Service Companies, and any other persons or their nominees/agents for any claims of damages asserted by the Card Customers, and resulting from one or both of the
Card Service Companies’ Incompliance with the terms and conditions of this Agreement.

§13 TERM OF THE AGREEMENT

1. This Agreement is effective as of July 1st, 1995, and terminates. It may be terminated by any party hereto at the end of each calendar year upon 12 months notice prior to the expiration date, subject to each party’s right of termination of the Agreement for material breach hereof. The termination of this Agreement by any one of the parties shall result in the termination of the entire Agreement with respect to the other parties involved.

2. CNA commits to return and delete all personal data stored at the time of termination hereof in accordance with the Card Service Companies’ Instructions.

§14 CONFIDENTIALITY

The parties hereto commit to treat strictly confidential any trade, business and operating secrets or other sensitive information of the other parties involved.

§15 DATA PROTECTION AGREEMENT WITH DEUTSCHE BAHN AG (DB AG)

1. The Deutsche Bahn AG captures personal data of parties hereto and appears as a joint issuer of the DB/Citibank BahnCard. The parties hereto agree that the Deutsche Bahn AG therefore bears responsibility for such data.

2. The Deutsche Bahn AG and CIP concluded a Data Protection Agreement as of February 13, 1996, defining the scope of data protection obligations and commitments between the parties. The parties hereto are familiar with said Data Protection Agreement and acknowledge the obligations arising for CIP thereunder.

3. The parties hereto authorize CIP to provide DB AG with written notification of this Agreement on Interterritorial Data Protection.

§16 GENERAL PROVISIONS

1. This Agreement sets forth the entire understanding between the parties hereto in connection with the subject matter as laid down herein and none of the parties hereto shall result in the termination of this Agreement.

2. If one or more provisions of this Agreement becomes invalid, the Agreement is proven to be incomplete, the validity and legality of the remaining provisions hereof shall not be affected or impaired thereby.

3. The parties hereto agree to substitute the invalid part of this Agreement by such a legally valid provision which constitutes the closest representation of the parties’ intention and the economical purpose of the invalid term of the parties hereto further to agree to be bound by such a valid term. An incompleteness of this Agreement shall be bridged in a similar fashion.

4. This Agreement shall be governed by, interpreted and construed in accordance with German law.

What are the main features of the International Agreement?

1. The parties on both sides of the Atlantic agree to apply German Data Protection Law to their handling of cardholders’ data (§1).

2. Customer data may only be processed in the United States for the purpose of producing the cards (§2).

3. Citibank in the United States and in Europe is not allowed to transfer personal data to third parties for marketing purposes except in two cases: (a) Data of applicants for a RailwayCard with payment function may be transferred to other Citibank companies in order to market financial services; (b) Data of applicants for a joint issuer of the DB/Citibank BahnCard may be transferred for BahnCard marketing purposes, i.e., to try to convince the cardholder that he should upgrade his RailwayCard to have a “better BahnCard” with credit card function (§41).

4. The technical requirements on data security according to German law are spelt out in detail in §5.

5. The American Citibank subsidiary has to appoint data protection supervisors and follow the German legal requirements (§6).

6. The German card customers have all individual rights against the American Citibank subsidiary which they have under German law. They can ask for inspection, claim deletion, correction or blocking of their data and they can bring an action for compensation of data protection rules (§9).

7. German law either against German Railway, the German Citibank subsidiary or directly against the American Citibank subsidiary (§8).

8. The Citibank subsidiaries in the United States accept on-site audits by the German data protection supervisory authority, i.e., the Berlin Data Protection Commission, or his nominated agents, e.g. an American consulting or auditing firm acting on his behalf (§10). This very important provision contains a restriction in case US authorities instruct Citibank in their country not to allow foreign audits in. However, this restriction is not very strict. For instance, On the contrary, US authorities have already declared by way of a diplomatic note sent to the German side that they will accept these audits. This follows an agreement between German and United States banking supervisory authorities on auditing the trans-border processing of accounting data (cf. §11).

9. Indeed this previous agreement very much facilitated the acceptance of German data protection audits by Citibank in the United States. As far as data security concepts are concerned an altered German law is in force. The German Authority and the Berlin Data Protection Commissioner will be working hand in glove.

10. Finally—and this is not reproduced in the draft—the American Citibank subsidiary has been linked to this agreement between Citibank subsidiaries in a specific provision.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1994. A bill to amend the Internal Revenue Code of 1986 to provide for an election to treat a conversion or a partnership treatment of certain S corporation conversions; to the Committee on Finance.

ELECTION FOR SPECIAL TAX TREATMENT OF CERTAIN S CORPORATION CONVERSIONS

• Mr. THOMAS. Mr. President, today I join Senator ENZI in introducing legislation that will give small businesses more flexibility in how they choose to operate.

One of the most important decisions for the founder of a business is “choice of entity,” whether to operate the business through a corporation, partnership, limited liability company or other form of business. This choice is plainly important for reaching business goals, and may be critical to the survival of the business. For the family business, the choice is also inseparable from the owner’s preferences as to how the owner wants to relate to family co-owners. Choice of entity is therefore potentially one of the most important decisions for an owner.

The law concerning choice of entity has changed enormously in the last decade, particularly with the widespread adoption of laws authorizing the limited liability company (LLC). As a result, business owners have more flexibility in this area than ever before. Even so, older family businesses operated as S corporations may be “locked” into the corporate form, simply because of the tax cost of changing to another form. These businesses are thus unable to take advantage of the recent advancements in choice of entity.

In order to help these older business remain competitive with their younger rivals, the bill Senator ENZI and I introduce today will allow a one-time election for an S corporation to change to another form of business without incurring the normal tax cost of doing so.

Thousands of corporations have elected subchapter S status since President Eisenhower signed into law the Technical Amendments Act of 1968, which added subchapter S to the code. The legislative history makes clear the purpose of this change was to offer simplified tax rules for the small and family-owned business operating in the corporate form.

Until the rise of the LLC in the mid-1980’s, the S corporation remained, for all practical purposes, the sole means for a small or family business to obtain the benefits of limited liability without the complex corporate tax. For many years, a change to another form of business was relatively easy. But by the time an altered S corporation became widely available, this avenue had been foreclosed by changes to the tax code. Thus thousands of S corporations are saddled with the cumbersome and inflexible rules of the corporate form.

The Internal Revenue Code itself reflects a policy of respecting economic reality over form in the conduct of a trade or business. For example, Section 1031, which existed even in 1939, allows a taxpayer to exchange like-kind property without incurring gains or losses.

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The Service should be commended for taking this step.

The next step in the process is allowing those $5 S corporations that can more efficiently function as an LLC the one-time chance to make the conversion, without increasing the cost of capital factor. Until these conversions can be accomplished, the task of reducing the role of taxes in choosing a business form will remain unfinished.

I look forward to working with Senator Roger Wicker and the other members of the Senate Finance Committee so we may take action on this measure as soon as possible.

By Mr. Santorum (for himself, Mr. Dodd, Mr. Torricelli, Mr. Lieberman, Mr. Schumer, and Mr. Lautenberg):

S. 106. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to adopt a national Lyme disease strategy; to establish the Lyme Disease Initiative of 1999, Mr. Santorum, Mr. President, it is with great enthusiasm that I rise today to join my friend and colleague, the senior senator from Connecticut, Christopher Dodd, in introducing the Lyme Disease Initiative of 1999. This legislation is aimed at waging a comprehensive fight against Lyme disease—America’s most common tick-borne illness.

I know that Mr. Dooley shares my sentiments in believing that this legislation could not be more timely or necessary. Lyme disease remains the 2nd fastest growing infectious disease in this country after AIDS. The number of annually reported cases of Lyme disease in the United States has increased about 25-fold since national surveillance began in 1982, and an average of approximately 12,500 cases annually were reported by states to the Centers for Disease Control and Prevention (CDC) from 1993-1997.

Every summer, tens of thousands of Americans enjoying or working in the outdoors are bitten by ticks. While most will experience no medical problems, others are not so lucky—including the 16,801 Americans who contracted Lyme disease last year.

According to some estimates, Lyme disease costs our nation $1 billion to $2 billion in medical costs annually. The number of cases of Lyme disease in 1998 increased 31.2 percent from the previous year—and that is only the tip of the iceberg. Many experts believe the official statistics underestimate the true number of Lyme disease cases by as much as ten or twenty-fold, because Lyme disease can be so difficult to diagnose.

And Lyme is a disease that does not discriminate. Persons of all ages and both genders are equally susceptible, although among the highest attack rates are in children aged 0-14 years.

The Lyme Disease Initiative is a five year, $125 million blueprint for attacking the disease on all fronts. In addition to authorizing the necessary resources to wage this war, this legislation outlines a public health management plan to make the most of our efforts on all fronts to combat Lyme disease:

- The Lyme Disease Initiative makes the development of better detection tests for Lyme disease the highest research priority.
- The Lyme Disease Initiative sets goals for public health agencies, including that cases of Lyme disease within five years of enactment in the ten states with the highest rates;
- The Lyme Disease Initiative fosters better coordination between the scattered Lyme disease programs within the federal government through a five year, joint-agency plan of action;
- The Lyme Disease Initiative helps protect workers and visitors at federally-owned lands in endemic areas through a system of periodic, standardized, and publicly accessible Lyme disease risk assessments;
- The Lyme Disease Initiative requires a review of current Lyme disease prevention and surveillance efforts to search for areas of improvement;
- The Lyme Disease Initiative fosters additional research into other related tick-borne illnesses so that the problem of co-infection can be addressed;
- The Lyme Disease Initiative initiates a plan to boost public and physician understanding about Lyme disease;
- The Lyme Disease Initiative creates a Lyme Disease Task Force to provide Americans with the opportunity to hold our public health officials accountable as they accomplish these tasks.

This legislation is the product of countless meetings that Senator Dodd and I have had with patients and families struggling to cope with this debilitating disease. Although Lyme disease can be treated in the early stages with antibiotics, sadly, the lack of physician knowledge about Lyme disease and the inadequacies of existing laboratory detection tests compound the physical suffering, which can include damage to the nervous system, skin, and joints and other significant health complications where patients go undetected, and hence untreated. Patients relate heart-breaking stories about visiting multiple doctors without getting an accurate diagnosis, undergoing unnecessary tests while getting progressively weaker and sicker—and racking massive medical bills in the process.

Although Lyme disease poses many challenges, they are challenges the medical research community is well equipped to meet. This legislation will enhance efforts to discover new information and establish treatment protocols for Lyme disease. Thanks to the scientific research being conducted here in the United States and around the world, new and promising research is already accumulating at a rapid pace. We have a unique opportunity to help re-build the shattered lives of Lyme victims and their families, and I look forward to working with Senator Dodd, my colleagues, and the administration to accomplish this worthy public health goal.

Mr. President, I rise today to join Senator Santorum in introducing The Lyme Disease Initiative of 1999, companion legislation to a bill introduced by Representative Chris Smith of New Jersey. The objective of this bill is simple—to put us on the path toward eradicating Lyme disease—a disease that is still unfamiliar to some Americans, but one that those of us from Connecticut and the Northeast know all too well.

Last Congress I was pleased to introduce similar legislation, The Lyme Disease Initiative of 1998, and to see a critical component of that legislation enacted into law. Through an amendment offered by the FY 1999 Department of Defense appropriations bill, an additional $3 million was directed toward the DoD’s Lyme disease research efforts. This was an important step in the fight to increase our understanding of this condition, but clearly much more remains to be done.

Almost every resident of my state has witnessed firsthand the devastating impact that this disease can have on its victims. As most of my constituents know, Lyme disease is a “home-grown” illness—it first achieved prominence in the 1980s in the state of Connecticut and got its name from the town of Lyme, CT. Connecticut residents have the dubious distinction of being 10 times more likely to contract Lyme disease than the rest of the nation.

To begin to address this crisis, this legislation would establish a five-year, $125 million blueprint for attacking the disease on all fronts by bolstering funding for better detection, prevention, surveillance, and public and physician education. Additionally, this legislation would require federal agencies involved in Lyme disease research and education to substantially improve the coordination of their efforts, in an effort to minimize duplication and to enhance federal leadership.

In my opinion, money to fund Lyme disease research and public education is money well spent. Studies indicate that long-term treatment of infected individuals often exceeds $100,000 per person—a phenomenon known as Lyme disease. Health problems experienced by those infected can include facial paralysis, joint swelling, loss of coordination, irregular heartbeat, liver malfunction, depression, and memory loss. Because Lyme disease mimics other illnesses, patients often must visit multiple doctors before a proper diagnosis is made. This results in prolonged pain and suffering, unnecessary tests, costly and futile treatments, and devastating emotional consequences for victims and their families.

Tragically, the number of Lyme disease cases reported to the CDC has sky-

November 10, 1999
rocked—from 500 in 1982 to 17,000 in 1998. In the last year alone, the number of infected individuals rose 25%. And these cases represent only the tip of the iceberg. Several new reports have found that the actual incidence of the disease is many times greater than current figures suggest.

While continuing to fight for additional funding for research into this disease, it is also critical that we ensure that current and future federal resources for Lyme disease are used wisely and in the best interest of individuals and families affected by this condition. To that end, I intend to ask the General Accounting Office to review current federal funding priorities for Lyme disease.

I truly look forward to the day when Lyme disease no longer plagues our nation and view The Lyme Disease Initiative of 1999 as a critical step toward that goal. I urge my colleagues to support this legislation.

By Mr. BINGAMAN (for himself, Mr. ALLARD, and Mr. CRAIG):

S. 1906. A bill to amend Public Law 104-307 to extend the expiration date of the act and to make certain changes to fund use in wildfire suppression, and for other purposes; to the Committee on Armed Services.

WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996 EXTENSION LEGISLATION

Mr. President, today more than ever workplaces too have changed. Clearly, this has revolutionized our culture. Child care is a constant personal as well as public policy issue. Many parents have made agonizing decisions about how to move forward in their careers without interruption because of a belief that parents uniformly cannot meet the requirements of these jobs. Neither could employers hire less qualified non-parents over parents because of unfounded concerns about parents. Basic discrimination against parents would cover parents of children under 18 years of age and children who remain under parental supervision because of a mental or physical disability, as well as those seeking legal custody of children and those who stand “in loco parentis.” The legislation would bar discrimination against parents in all aspects of employment, including recruitment, referral, hiring, promotions, discharge, training and other terms and conditions of employment.

For example, this legislation would make illegal policies against hiring single parents. Employers would be prohibited from taking a father or a mother off a career-advancing path out of a belief that parents uniformly cannot meet the requirements of these jobs. Neither could employers hire less qualified non-parents over parents because of unfounded concerns about parents. Basic discrimination against parents would cover parents of children under 18 years of age and children who remain under parental supervision because of a mental or physical disability, as well as those seeking legal custody of children and those who stand “in loco parentis.” The legislation would bar discrimination against parents in all aspects of employment, including recruitment, referral, hiring, promotions, discharge, training and other terms and conditions of employment.

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I want to be very clear, Mr. President, this legislation does not release working parents from any job performance requirements. Employers are free to make decisions based on an employee’s job performance or ability to meet job requirements or qualifications—no matter what that employee’s parental status is. Thus, an employer may discipline an employee who is late because of childcare issues. Similarly, an employer may reject an applicant for a job that requires extensive travel if that applicant is unwilling to travel because of his or her parental responsibilities. What the bill would prohibit...
is rejection of an applicant who is willing to travel based simply on the assumption that he or she, as a parent, will be unable to fulfill that commitment.

Mr. President, this is unfortunately not a new problem for parents. Several states, including Alaska, Nebraska, New Hampshire, New Jersey, and South Dakota, and the District of Columbia have enacted laws that prohibit discrimination based on parental status. There have also been several federal cases filed under gender discrimination statutes that have found discrimination based on parental status. In one case, an employer transferred an employee recently back to work from maternity leave into a lower paying job, not based on her request or her performance, but because the employer simply felt it better suited a new mother. Beyond anecdotes and a few court cases, it is difficult to gauge the extent of this problem—rare or common—given the extremely limited avenues of redress open to parents currently.

But no matter how rare—if it happens just once it is wrong. And working parents deserve better. This legislation makes sure they get it. I urge my colleagues to join me in support of this legislation.

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. 1907

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 “Ending Discrimination Against Parents Act of 1999.”

SEC. 2. FINDINGS.

(a) In 1998, thirty-eight percent of all United States workers had children under 18.

(b) The vast majority of Americans with children under 18 are employed.

(c) The majority of working parents do not work in the areas of retail, food service, or transportation.

(d) However, no existing Federal statute prohibits discrimination against workers on the basis of sex; the Americans with Disabilities Act of 1990 prohibits discrimination against workers on the basis of disability; and the Pregnancy Discrimination Act of 1978 prohibits discrimination against workers on the basis of sex and pregnancy. Also, the Family and Medical Leave Act of 1993 provides covered workers with job protection when they take time off for certain family responsibilities.

(e) However, no existing Federal statute protects all workers from employment discrimination on the basis of their status as parents.

(f) Such discrimination occurs in the workplace and has been largely unreemed. Such discrimination occurs in both the private and the public sectors.

(g) Such discrimination—

(1) prevents the best use of available labor resources;

(2) has spread and perpetuated, through commerce and the channels of instrumentalism, among the workers of several States;

(3) burdens commerce and the free flow of goods in commerce;

(4) creates an unfair method of competition in commerce; and

(5) leads to labor disputes burdening an obstructing commerce and the free flow of goods in commerce.

(i) Elimination of such discrimination would have positive effects, including—

(a) solving problems in the economy created by unfair discrimination against parents; and

(b) protecting stable families by enabling working parents to work free from discrimination against parents; and

(c) remedying the effects of past discrimination against parents.

SEC. 3. PURPOSES.

The purposes of this Act are—

(a) to prohibit employers, employment agencies, and labor organizations from discriminating against parents and persons with parental responsibilities based on the assumption that they cannot satisfy the requirements of a particular position; and

(b) to provide meaningful and effective remedies for employment discrimination against parents and persons with parental responsibilities.

SEC. 4. DEFINITIONS.

In this Act:

(a) “Commission” means the Equal Employment Opportunity Commission.

(b) “Complaining party” means the Commission, the Attorney General, or any other person who is seeking an action or proceeding under this Act.

(c) “Covered entity” means an employer, employment agency, labor organization or organization, or joint labor-management committee.

(d) “Demonstrates” means meet the burden of production and persuasion.

(e)(1) The term “employee” means—

(i) an individual to whom section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) applies;

(ii) an individual to whom section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies;

(iii) an individual to whom section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies;

(iv) a covered employee as defined in section 101(3) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(3)); and

(v) a covered employee as defined in section 411(c)(1) of title 3, United States Code.

(f)(1) The term “employee” means—

(i) a person engaging in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h))) who has fifteen or more employees (as defined in section 701(f) of such Act (42 U.S.C. 2000e(f))) for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person; and

(ii) an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies;

(iii) employing an authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies;

(iv) an employer as defined in section 101(9) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)); and

(v) an employer as defined in section 411(c)(2) of title 3, United States Code.

(g) “Employment agency” has the meaning given that term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a(a)).

(h) “Office of Compliance” has the meaning given that term in title VI of the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

(i) “Parent” means a person who, regardless of the legal custody of the child, is over the age of 18, or who is 18 or older but is incapable of self-care because of a physical or mental disability—

(I) has the status of—

(i) a biological parent;

(ii) an adoptive parent;

(iii) a foster parent;

(iv) a stepparent; or

(v) a custodian of a legal ward;

(2) is actively seeking legal custody for the child; and

(3) stands in loco parentis to such an individual.

(j) “Person” has the meaning given that term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a(a)).

(m) “Physical or mental disability” means any mental or physical impairment that substantially limits one or more of the major life activities of an individual.

(n) “State” has the meaning given that term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a(a)).

SEC. 5. DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire, or to discharge, any individual, or otherwise to discriminate against any individual with regard to the compensation, terms, conditions, or privileges of employment of the individual, because such individual is a parent; or

(2) to limit, segregate, or classify employees in any way that would deprive, or tend to deprive, any individual of any opportunities or otherwise adversely affect the status of the individual as an employee, because such individual is a parent.

(b) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against any individual because such individual is a parent or to classify or refer for employment any individual because such individual is a parent.

(c) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or expel from its membership, or otherwise to discriminate against, any individual because such individual is a parent;
(2) to limit, segregate, or classify its members or applicants for membership, or to classify or fail or refuse to refer to employ any individual, in any way that would deprive any individual of any employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status of the individual as an employee, because such individual is a parent; or

(3) to cause or attempt to cause an employer to discriminate against any individual in any way that would deprive such individual of any employment opportunities, or would limit such employment opportunities, or would limit, segregate, or classify its members, or applicants for membership, or to classify or fail or refuse to refer to employment any individual, in any way that would deprive any individual of any employment opportunities, or would limit such employment opportunities, or otherwise adversely affect the status of the individual as an employee, because such individual is a parent in admission to, or employment in, any program established to provide apprenticeship or other training.

SEC. 6. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an employee because the employee engaged in an activity or practice prohibited by this Act or because the employee took any action prohibited by this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—A covered entity shall not coerce, intimidate, threaten, or interfere with any employee in the exercise or enjoyment of, or on account of the employee’s having exercised or enjoyed, or on account of the employee’s having encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

SEC. 7. OTHER PROHIBITIONS.

(a) COLLECTIVE BARGAINING.—Notwithstanding any other provision of this Act, the Commission shall not collect statistics from covered entities on their employment of parents, or compel the collection of such statistics by covered entities, unless such statistics are to be used in investigation, litigation, or resolution of a claim of discrimination under this Act.

(b) QUOTAS.—A covered entity shall not adopt or implement a quota with respect to its employment of parents.

SEC. 8. MIXED MOTIVE DISCRIMINATION.

(a) A covered entity’s employment practice is established under this Act when the complaining party demonstrates that—

(1) an individual’s status as a parent; or

(2) the practice is motivated by, or conditioned by, or threatens against, intimidation of, or interference with an individual as described in section 6 of this Act.

was a motivating factor for any employment practice, even though other factors also motivated the practice.

(b) When an individual proves a violation under this Act, and the respondent demonstrates that the respondent would have taken the same action in the absence of the prohibited motivating factor, a court or any other entity authorized to issue regulations under this Act shall be held to be invalid, the remedies provided by this Act shall be held to be invalid.

(c) An individual claiming discrimination prohibited by this Act with respect to an employee of the Library of Congress, the Merit Systems Protection Board, the President, the courts of the United States, or any other person alleging a violation of any provision of this Act—

(1) for individuals who are covered under title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.), sections 701, 706, 707, 709, 710, 711, and 717 of that Act (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-7, and 2000e-8) and sections 1101, 1102, and 1103 of title 5, United States Code, as applicable;

(2) for individuals who are covered under section 302(a) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)), sections 302(b)(1) and 302(b)(e) of that Act (2 U.S.C. 1202(b)(1), 1202(b)(e));

(3) for individuals who are covered under section 1013 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(3)), sections 203(b)(1), 225, and 401-416 of that Act (2 U.S.C. 1301(b)(1)), 1301(c), and 1301(d); and

(4) for individuals who are covered under section 411(c)(1) of title 3, United States Code, sections 411(b)(1), 411(b)(2), and 415-416 of that title:

(b) ADDITIONAL REMEDIES.—The attorney general or implied limitation on the remedies incorporated by reference in subsection 11(a), except as provided in subsection (b)(1) of this section, or section 8, or section 12 of this Act, any covered entity that violates this Act shall be liable for such compensatory damages as may be appropriate and for punitive damages if the complaint is based on a discriminatory practice or practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

(c) If a court or any other entity authorized to issue regulations under this Act shall be held to be invalid, the remedies provided by this Act shall be held to be invalid.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling covered entities or other training or retraining, including on-the-job training programs, to discriminate against any individual because such individual is a parent in admission to, or employment in, any program established to provide apprenticeship or other training.

SEC. 9. DISPARATE IMPACT.

Notwithstanding any other provision of this Act, an employment practice has a disparate impact on parents, as the term “disparate impact” is used in section 709(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(k)), shall not establish a violation of this Act.

SEC. 10. DEFENSES WHERE ACTIONS TAKEN IN A FOREIGN COUNTRY.

(a) It shall not be unlawful under this Act for a covered entity to take any action otherwise prohibited under this Act with respect to a covered entity in a foreign country if compliance with this Act would cause such entity to violate the law of the foreign country in which such workplace is located.

(b) If a covered entity controls a corporation whose place of incorporation is a foreign country, any practice prohibited by this Act engaged in by such covered entity shall be presumed to be engaged in by such covered entity.

(c) This Act shall not apply to a covered entity with respect to the foreign operations of a corporation that is a foreign person not controlled by an American covered entity.

(3) For purposes of this subsection, the determination of whether a covered entity controls a corporation shall be based on the factors set forth in section 702(c)(3) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1(c)(3)).

(4) Notwithstanding subsection (b)(1), an individual’s status as a parent; or

(5) an individual may bring an action in a district court of the United States for declaratory or injunctive relief against any appropriate State official or State for a violation of this Act.

SEC. 11. ENFORCEMENT AND REMEDIES.

(a) INCORPORATION OF POWERS, REMEDIES, AND PROCEDURES IN OTHER CIVIL RIGHTS STATUTES.—With respect to the administration and enforcement of this Act, the courts of the United States, and any other person alleging a violation of any provision of this Act—

(1) for individuals who are covered under title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.), sections 701, 706, 707, 709, 710, 711, and 717 of that Act (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-7, and 2000e-8) and sections 1101, 1102, and 1103 of title 5, United States Code, as applicable;

(2) for individuals who are covered under section 302(a) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)), sections 302(b)(1) and 302(b)(e) of that Act (2 U.S.C. 1202(b)(1), 1202(b)(e));

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(4) for individuals who are covered under section 411(c)(1) of title 3, United States Code, sections 411(b)(1), 411(b)(2), and 415-416 of that title:

(b) ADDITIONAL REMEDIES.—If any provision of this Act, or the application of such provision to any person or circumstances, is held to be invalid, the remedies provided under this Act shall be held to be invalid.

(c) Notwithstanding any express or implied limitation on the remedies incorporated by reference in subsection (b)(1) above, an individual may bring an action in a district court of the United States for declaratory or injunctive relief against any appropriate State official or State for a violation of this Act.

SEC. 12. FEDERAL IMMUNITY.

Notwithstanding any other provision of this Act, in an action or administrative proceeding against the United States for a violation of this Act, remedies (including remedies at law and in equity, and interest) are available for a violation to the same extent as the remedies are available against a private entity, except that punitive damages are not available.

SEC. 13. POSTING NOTICES.

(a) A covered entity shall post notices for individuals to whom this Act applies that describe the applicable provisions of this Act in the manner prescribed by, and subject to the provisions provided under, section 707 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

(b) ADDITIONAL REMEDIES.—Any appropriate State official or State for a violation of this Act.

SEC. 14. REGULATIONS.

(a) In GENERAL.—Except as provided in subsections (b)(1) and (c), the Commission shall have authority to issue regulations to carry out this Act.

(b) LIBRARIAN OF CONGRESS.—The librarian of the Congress shall have authority to issue regulations to carry out this Act with respect to employees of the Library of Congress.

(c) BOARD.—The Board of the Office of Compliance shall have authority to issue regulations to carry out this Act with respect to covered employees as defined in section 101(3) of such Act (2 U.S.C. 1301(3)).

SEC. 15. RELATIONSHIP TO OTHER LAWS.

(a) Nothing in this Act shall affect the interpretation or application of, and this Act shall not invalidate or limit the rights, remedies, and procedures available to any covered entity, or the remedies at law and in equity, and interest) are available for a violation to the same extent as the remedies are available against a private entity, except that punitive damages are not available.


If any provision of this Act, or the application of such provision to any person or circumstances, is held to be invalid, the remedies provided under this Act shall be held to be invalid.

SEC. 17. APPROPRIATIONS.

Any entity authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 18. EFFECTIVE DATE.

This Act shall take effect 180 days after enactment and shall not apply to conduct occurring before the effective date.
S. 1908
A bill to protect students from commercial exploitation; to create new privacy protections for students; and for other purposes.

Mr. DODD. Mr. President, I rise today to offer legislation, the "Student Privacy Protection Act," to provide parents and their children with modest, but appropriate, privacy protection from questionable marketing research in the schools.

There are few images as enduring as those we experienced as schoolchildren: the teachers and chalkboards, the principal's office, children at play during recess, school libraries, and desks organized around a room. All define a school in our memories and continue to define schools today. Clearly, there have been changes and many of those for the good. Computers have become more common and are now in a majority of classrooms. Students with disabilities are today included in regular classes rather than segregated in separate classrooms or schools.

However, some changes in my view have not been for the best. More and more schools and their classrooms are becoming corporateized. School teachers and their students are daily barraged with commercial messages aimed at influencing the buying habits of children and their parents. A 1997 study from the Kaiser Family Foundation estimated that children aged 4-12 years, spent more than $24 billion themselves and influenced their parents to spend $187 billion. Marketing to children and youth is particularly powerful, however, because students are not just current consumers, they will be consumers for decades to come. And just as we hope that what students learn in schools stays with them, marketers know their messages stick—be it drinking Coke or Pepsi, or wearing Nikes or Reeboks, these habits continue into adulthood.

There is no question that advertising is everywhere in our society from billboards to bathroom stalls. But what is amazing is how prevalent it has become in our schools. Companies no longer just finance the local school's scoreboard or sponsor a little league team, major national companies advertise in school hallways, in classrooms, on the fields and, even, in curriculum which they have developed specifically to get advertising decisions on what goes in and what stays out of classrooms. In my view, too often these decisions are made in the face of very limited resources. I believe most educators recognize the potential downsides of exposing children to commercial messages—but too often they have no choice. They are faced with two poor choices: provide computers, current events or other activities with corporate advertising or not at all.

The legislation I offer today does not second guess these hard decisions. This bill, which is a companion to legislation introduced in the other body by Congressman GEORGE MILLER, would prohibit schools from letting students participate in various forms of market research without their parents' written permission. This bill would also provide for a study of the extent and effect of commercialism in our schools.

This is, I believe, a modest proposal that deals with one of the most disturbing commercial trends in our schools. Existing school privacy laws protect official records and educational research. Current law leaves a loophole that allows businesses to go into classroom and find out not just what children know, but what children are like—information about family income, buying habits, preferences, etc.—without the consent of their parents.

Marketers and advertisers use this information to target and better hone their message to reach youngsters and their families.

This is not some scenario from a science fiction novel. Elementary school students in New Jersey filled out a 27-page booklet called "My All About Me Journal" as part of a market research survey for a cable television channel. A technology firm provides schools with free computers and Internet access, but monitors students' web activity by age, gender, and ZIP code. Children in a Massachusetts school did a cereal taste test and answered an opinion poll. This legislation does not presume that these activities are bad or unrelated to learning—it simply requires parents' written permission before their children participate.

Mr. President, public education is not a new topic for discussion here on the Senate floor. But we rarely think about the actual words we use—"Public education"—and what they mean. To me, schools should be seen as the public as a whole: schools that serve all children, schools that are the central element in their communities, and that are financed by all of us through our taxes—local, state and federal. This bill helps ensure that they remain true to their name.

I ask unanimous consent that a copy of this legislation be printed in the RECORD.

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

S. 1908
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.
This Act may be cited as the "Student Privacy Protection Act".

SEC. 2. PRIVACY FOR STUDENTS.
Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2801 et seq.) is amended by adding at the end the following:

"SEC. 14515. PRIVACY FOR STUDENTS.
(a) In General.—None of the funds authorized under this Act may be used by an applicable program to allow a third party to monitor, receive, gather, or obtain information intended for commercial purposes from any student under 18 years of age without prior, written, informed consent of the parent of the student.
(b) INTENTION OF THIRD PARTY.—Before a school, local educational agency, or State, as the case may be, enters into a contract with a third party to monitor, receive, gather, or obtain information intended for commercial purposes from any student under 18 years of age without prior, written, informed consent of the parent of the student.
(c) CONSENT FORM.—The consent form referred to in subsection (a) shall indicate the dollar amount and nature of the contract between a school, local educational agency, or State, and the third party, including the nature of the information to be gathered, how the information will be used, whether the information will be sold, distributed, or transferred to other parties and the amount of class time, if any, that will be consumed by such activity.
(d) CONSENT FORM.—The consent form referred to in subsection (a) shall indicate the dollar amount and nature of the contract between a school, local educational agency, or State, and the third party, including the nature of the information to be gathered, how the information will be used, whether the information will be sold, distributed, or transferred to other parties and the amount of class time, if any, that will be consumed by such activity.

SEC. 3. GAO STUDY.
(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study in accordance with subsection (b) regarding the prevalence and effect of commercialism in elementary and secondary education.

(b) CONTENTS.—The study shall—

(1) document the nature, extent, demographics, and trends of commercialism (commercial advertising, promotional programs and activities, exclusive agreements, incentive programs, appropriation of space,
still do not know the details of the Italian American internment, and the American government has yet to acknowledge that these events ever took place. Through this legislation, the Administration will be required to report on the extent to which civil liberties were violated, and the Justice Department would conduct a comprehensive review of the Italian American internment, and report its findings, including the name of every person taken into custody, interned, or arrested. The specific injustices they suffered in camps and jail cells would be detailed in the report. Moreover, federal agencies, from the Department of Education to the National Endowment for the Humanities, would be encouraged to support projects like “Una Storia Segreta” that draw attention to this episode of American history.

The United States has rightfully admitted its error in interning Japanese Americans. However, Americans of Italian descent suffered equal hardships and their recognition has been denied to them. I look forward to working with my colleagues to secure passage of this legislation so that the United States government will begin to come to terms with the treatment they received during World War II.

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:

Mr. TORRICELLI. Mr. President, I rise today to introduce a bill that is important not only to every American of Italian descent, but to any American citizen who values our Constitutional freedoms. This bill is a direct reaction to the plight of Italian Americans during World War II. Their story has received little attention until now, and I am pleased to be able to heighten public awareness about the injustices they received.

Hours after the Japanese bombed Pearl Harbor on December 7, 1941, the Federal Bureau of Investigation arrested 250 Italian Americans and shipped them to internment camps in Montana and Ellis Island. These men had done nothing wrong. Their only crime was their Italian heritage and the suspicion that they could be dangerous during war time. By 1942, all Italian immigrants, approximately 600,000 people, were labeled “enemy aliens” and given photo IDs which they had to carry at all times. They could travel no further than five miles from their homes and were required to turn in all cameras, flashlights and weapons.

These violations did not discriminate against class or social status. In San Francisco, Joe DiMaggio’s parents were forbidden to go further than five miles from their home without a permit. Enrico Fermi, a leading Italian physicist who was instrumental in America’s development of the atomic bomb, could not travel freely along the East Coast. Yet, while these activities persisted in the United States, Italian Americans comprised the largest ethnic group in the Armed Forces. During the war, Italian Americans fought valiantly to defend the freedoms that their loved ones were being denied at home.

These are the stories we know about and the facts which have come to light. Yet more than fifty years after the end of World War II, the American people still do not know the details of the意大利 American internment, and that their loved ones were being denied. Through this legislation, the Administration will be required to report on the extent to which civil liberties were violated, and the Justice Department would conduct a comprehensive review of the Italian American internment, and report its findings, including the name of every person taken into custody, interned, or arrested. The specific injustices they suffered in camps and jail cells would be detailed in the report. Moreover, federal agencies, from the Department of Education to the National Endowment for the Humanities, would be encouraged to support projects like “Una Storia Segreta” that draw attention to this episode of American history.

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

S. 1909. A bill to provide for the preparation of a Governmental report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgment of such injustices by the President; to the Committee on the Judiciary.

Mr. TORRICELLI. Mr. President, I rise today to introduce a bill that is important not only to every American of Italian descent, but to any American citizen who values our Constitutional freedoms. This bill is a direct reaction to the plight of Italian Americans during World War II. Their story has received little attention until now, and I am pleased to be able to heighten public awareness about the injustices they received.

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These are the stories we know about and the facts which have come to light. Yet more than fifty years after the end of World War II, the American people still do not know the details of the
By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 1910. 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.

HUNthouse PURCHASE AUTHORIZATION

LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to send to the desk a bill that is called the Atlantic Highly Migratory Species Act of 1999. The legislation co-sponsored by Senators SNOWE, HOLLINGS, SHELBY, KERRY, SESSIONS, and LANDRIEU results from a far reaching conservation agreement among four key recreational and commercial fishing organizations. These organizations include the Billfish Foundation, the Coastal Conservation Association, the American Sportfishing Association, and the Blue Water Fishermen's Association.

The legislation will prohibit pelagic long line fishing for designated months each year in U.S. waters determined to be swordfish nursery and billfish bycatch areas based on extensive analyses of the best available science. Based upon the effectiveness of this type of management strategy in other U.S. fisheries, I am optimistic about the benefits that can come from the legislation.

Mr. President, the legislation has three major components that I would like to briefly outline.

First, the bill would prohibit pelagic longline fishing for certain months each year in U.S. waters determined to be swordfish nursery and billfish bycatch areas based on extensive analyses of the best available science. Based upon the effectiveness of this type of management strategy in other U.S. fisheries, I am optimistic about the benefits that can come from the legislation.

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species, including North Atlantic swordfish, are currently overfished. The National Marine Fisheries Service reports that billfish and some shark and tuna species are at all-time lows in abundance as a result of longline fishing. The U.S. longline fleet has been identified for international rules by commercial fishermen of other nations. The international management body for highly migratory species, the International Commission for the Conservation of Atlantic Tunas (ICCAT), recently expressed concern about the high catches and discards of small swordfish and emphasized that future gains in yield could accrue if fishing mortality on small fish could be reduced. Further, ICCAT encouraged member nations to consider alternative methods such as time/area closures to aid rebuilding of highly migratory stocks. I commend Senator Breaux for attempting to establish such areas domestically, and hope that we can serve as a model for other regions.

While this legislation can result in important conservation achievements, we must also employ other means to protect and rebuild our highly migratory species such as swordfish. Next week, nations will convene in Recife, Brazil to determine new international management measures for Atlantic swordfish. The United States must supplement Senator Breaux's proposal by securing an agreement at ICCAT that will reduce catches by all member nations sufficient to allow the North Atlantic swordfish population to recover within ten years or less—a goal that scientists tell us can only be achieved if we count discarded dead swordfish against the catch quotas. In addition, I am certain that Senator Breaux's effort to reduce bycatch and establish time-area closures will serve as a powerful example to the international community of a responsible method for sustaining and restoring highly migratory species.

I applaud my colleague and the other architects of this ambitious conservation effort and look forward to working with Senator Breaux and other cosponsors of the bill to ensure that this legislation is consistent with the principles of the Magnuson-Stevens Act and part of an effective national plan to ensure recovery of the North Atlantic swordfish stock within 10 years.

By Mr. Frist (for himself, Mr. McCain, and Mr. Bingaman).

Mr. Frist. Mr. President, I rise today to introduce the Electronic Commerce Technology Promotion Act. I am very pleased to be joined by Senators McCain and Bingaman.

Electronic commerce has fundamentally changed the way we do business, promising increased efficiency and improved quality at lower cost. It has been widely embraced by industry, both in the United States and abroad. This is evident in the growth of the electronic commerce market, which though almost non-existent just a few years ago, is expected to top $1 trillion by 2003, according to market research reports.

The benefits of electronic commerce are numerous. The potential that electronic transactions can be completed seamlessly and simultaneously, regardless of geographical boundaries. Inherent in this is the ability of different systems to communicate and exchange data, can be referred to as “system interoperability.” The continued growth of global electronic commerce depends on a fundamental set of technical standards that enable essential technologies to interoperate, and on a policy and legal framework that supports the development that the market demands in a timely manner.

The United States is leading this global revolution. We are on the forefront in every sector, continually evolving their businesses and developing new technologies to adapt to changing market needs. Continued growth of the overall electronic commerce market is vital to our global economy as well as the global market.

For the electronic commerce market to sustain its current phenomenal growth rate, companies must be able to and flexible in responding to market needs, their activities unfettered by cumbersome and static regulations. The federal government must allow the private sector to continue to take the lead in developing this dynamic global market, and refrain from undue regulatory measures where possible.

At the same time, the federal government must unambiguously signal its strong desire to promote and facilitate the growth of the electronic commerce market by adopting and deploying relevant technologies within the federal agencies, as well as widely promoting their use by small and medium-sized enterprises. Usage of these technologies in the federal agencies enables us to share in the benefits of the electronic commerce revolution and participate more effectively as an active contributor in the private sector efforts to develop the frameworks and specifications necessary for systems and components to interoperate. This has the added advantage of allowing the government to intercede in a timely manner, either in failure conditions or to remove barriers erected by foreign governments. Furthermore, we would be strengthening our global leadership while at the same time establishing a model for other governments and enabling the growth of the global electronic commerce market.

Small and medium-sized businesses have traditionally been the fastest growing segment of our economy, contributing more than 50 percent of the private sector output in the United States. Electronic commerce has the potential to enable these enterprises to enter the market with lower entry costs, yet extend their reach to a much larger market. The federal government has an inherent interest in helping them to maintain their global competitiveness.

It is in response to these needs that I introduce today the Electronic Commerce Technology Promotion Act. The legislation establishes a Center of Excellence for Electronic Commerce at the National Institute of Standards and Technology. The ECTA Act as a centralization of resources information for federal agencies and small and medium-sized businesses in electronic commerce technologies and issues. My
intention is not to create yet another program at NIST which will require substantial appropriations, but to create an office that focuses solely on electronic commerce by building upon existing expertise and resources. We have proposed to convert NIST, a well-established, highly regarded federal agency, into a focal point for creating an electronic commerce infrastructure. NIST's Manufacturing Extension Program (MEP) and the Small Business Administration provide assistance to small and medium-sized enterprises on issues related to the deployment and use of electronic commerce technologies, including developing training modules and software toolkits. In working jointly, the Center can build upon the existing MEP infrastructure to reach out to these businesses. It is important to note that my intention is not to modify the charter of the MEP program.

Mr. President, I believe that the growth of the electronic commerce market is vital to our economic growth. It is our responsibility to facilitate and encourage market forces, as well as our best efforts as a government to help ensure that the market sustains its current phenomenological growth rate. Therefore, I urge my colleagues to support timely passage of this legislation so that we can give our unambiguous support for the development of electronic commerce as a market-driven phenomenon, and signal our strong desire to promote and facilitate the growth of the electronic commerce market.

Mr. BINGAMAN. Mr. President, I am very pleased to join Senators Frist and McCain today in introducing the "Electronic Commerce Technology Promotion Act:"

This bill, which sets up a center of Excellence in Electronic Commerce in the National Institute of Standards and Technology, or NIST, is a solid step towards adapting an important federal agency to the digital economy we see blooming around us. NIST was established in 1901 as the National Bureau of Standards during a time of tremendous industrial development, when technology became a key driver of our economic growth. Making those technologies literally fit together reliably through standards became a government goal. It was precisely that one key to sustaining our industrial growth and the quality of our products was a federal laboratory devoted to developing standards. The Bureau of Standards is a classic example of how the federal government can support the development of technologies that undergirds economic growth and enables the competitive marketplace to work.

Around ten years ago, Congress modified, with NIST's charter, its response to the problems of the 1980's, increasing its focus on competitiveness, adding efforts like the highly regarded Manufacturing Extension Program (MEP), and changing the name to NIST. Turning to the challenges of today's growing digital economy, this bill makes NIST a focal point in the federal government for promoting electronic commerce throughout our economy by establishing a Center of Excellence in Electronic Commerce there. While the challenges of making things fit together in a digital economy are different—and now go under the un-melodic term "interoperability"—they are just as crucial a challenge in the industrial economy of 1901. And, NIST remains an excellent place to lead the work.

I'm particularly pleased that this bill includes the fundamental idea behind my bill S. 3404, the Electronic Commerce Extension Establishment Act of 1999. That is, NIST ought to lead an electronic commerce extension program or service to provide small businesses with low cost, impartial technical advice on how to enter and succeed in e-commerce. This service will help ensure that small businesses in every part of the nation fully participate in the unfolding e-commerce revolution through a well-proven policy tool—a service analogous to the Department of Agriculture's Cooperative Extension Service and NIST’s own MEP. I believe such a service would help both small businesses and our entire economy as the productivity enhancements from e-commerce are spread more rapidly, and I recently asked Secretary Daley for a report on how such a service should work. So, I thank Senator Frist for including my basic policy idea in his bill and look forward to working with him to flesh it out, particularly in light of the report we should get from the Commerce Department.

Mr. President, I urge my colleagues to join Senators Frist, McCain, and myself in supporting this bill, as one step the Congress can take to make sure an important federal agency, NIST, continues its strong tradition of helping our economy—our growing digital economy—be the most competitive in the world.

By Mr. LOTT (for Mr. McCain for himself and Mr. Ky): S. 1313 A bill to amend the Act entitled "An act relating to the water rights of the Ak-Chin Indian Community" to clarify certain provisions concerning the leasing of such water rights, and for other purposes; to the Committee on Indian Affairs.

The Ak-Chin Water Rights Settlement Act Amendments of 1999

- Mr. McCain. Mr. President, I rise on behalf of myself and my colleague, Senator Kyi, to offer legislation that will make an important clarification to the Ak-Chin Water Rights Settlement Act of 1984. Similar legislation has been introduced in the House by Representative Shadegg.

Let me explain why this legislation is necessary.

In 1992, Congress amended the Ak-Chin Water Rights Settlement Act to allow the Ak-Chin Indian Community to enter into leases of the Community's water for a term not to exceed 100 years. On December 15, 1994, the Ak-Chin Indian Community entered into an agreement with the Del Webb Corporation to allow the option to lease up to 10,000 acre-feet of water for a period of 100 years from the date the option was exercised. Del Webb exercised the option on December 6, 1996, with a principal objective of leasing a water supply for its development of a master-planned community in the Phoenix area.

However, since 1995, the State of Arizona, through its Department of Water Resources, has required certificates of assured water supply for 100 years for developments within the Phoenix Active Management Area. The 100-year assured water supply requirement is one of the key tenets of Arizona’s water resource management. A certificate cannot be obtained unless a developer demonstrates an efficient groundwater, surface water or adequate quality effluent will be continuously available to satisfy the proposed use of the development for at least 100 years.

Unfortunately, the lease as signed in 1996 has now matured for three years without the actual application to the Arizona Department of Water Resources for a certificate of assured water supply. This delay has demonstrated that efficient groundwater, surface water or adequate quality effluent will be continuously available to satisfy the proposed use of the development for at least 100 years.

The lease agreement with Del Webb expires on December 6, 1999, and will not meet the State’s test of continuing legal and physical availability of water supply. Moreover, the Community does not have statutory authority to grant leases with terms in excess of 100 years.

To resolve this unanticipated conflict, the affected parties have agreed that it is required for modification to the Ak-Chin Water Rights Settlement Act of 1984 to allow the extension of leasing authority to include options to lease and renew or extend existing leases. This change will allow the Ak-Chin Indian Community to extend or renew the existing lease with Del Webb for a cumulative term that would expire more than 100 years from today.

Mr. President, this legislation will make it possible to extend the current lease term in order for the Ak-Chin/Del Webb agreement to be in compliance with State law. All parties and interests directly impacted by this lease agreement are...

SEC. 2. TECHNICAL AMENDMENTS TO AK-CHIN WATER USE ACT OF 1994.

(a) SHORT TITLE. —This section may be cited as the "AK-Chin Water Use Amendment Act of 1999".

(b) AUTHORIZATION OF USE OF WATER. —Section 2(j) of the Act of October 19, 1984 (Public Law 98-330, 98 Stat. 2698) is amended to read as follows:

"(j)(1) The Ak-Chin Indian Community (hereafter in this subsection referred to as the 'Community') shall have the right to use water supplied to it by this Act to any use, including agricultural, municipal, industrial, commercial, mining, recreational, or other beneficial use, in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew options to lease, to extend the initial terms of leases for the same or a lesser term, or as the initial term of the lease, to renew leases for the same or a lesser term as the initial term of the lease, to exchange temporarily or permanently dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1.

"(2) Notwithstanding paragraph (1), the initial term of any lease entered into under this subsection shall not exceed 10 years and the Community may not permanently alienate any water right. In the event the Community leases, enters into an option to lease, or enters into a lease, extends an existing lease, renews a lease, or exchanges or temporarily disposes of water, such action shall only be valid pursuant to a contract that has been accepted and ratified by a resolution of the Ak-Chin Indian Community Council and approved and executed by the Secretary."


BY MR. MACK FOR HIMSELF AND MRS. HUTCHISON.

S. 1914. A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO PROVIDE FOR THE CREATION OF DISASTER PROTECTION FUNDS BY PROPERTY AND CASUALTY INSURANCE COMPANIES FOR THE PAYMENT OF POLICYHOLDERS' CLAIMS ARISING FROM FUTURE CATASTROPHIC EVENTS; TO THE COMMITTEE ON FINANCE.

POLICYHOLDER DISASTER PROTECTION ACT

- Mr. MACK. Mr. President, I rise today to talk about a serious and growing problem that ought to be a concern to all of us: natural disasters and the exposure of the private insurance industry to catastrophic risks. In my state of Florida, we have a particular concern about hurricane risk, but many areas of the country are exposed to the risks of other major catastrophes—whether they be volcanoes, earthquakes or tornadoes. Increasingly, I am concerned about the state of the private insurance industry and its ability to withstand a major catastrophe—a catastrophe of Hurricane Andrew size ($15 billion in insured losses) or greater.

Today, I am introducing legislation to help address this problem and strengthen disaster protection for consumers and businesses while protecting the interests of the taxpayer. I am pleased my friend from Texas, Senator Hutchison, has joined in this effort. I believe our approach is an innovative, private-sector solution to the risk of catastrophic fire and I encourage my colleagues to review this proposal carefully.

Consumers of property and casualty insurance must be able to rely on their insurers for protection against the risk of catastrophic losses. However, protection for policyholders in today's system is weak; a major future catastrophe could leave consumers without protection and—in past experience—is any indication—the government would intervene to ensure the people in the disaster areas receive timely compensation. It is important to note that current law actually poses a disincentive for insurers to set aside special reserves for catastrophic events. Any money set aside to cover potential risk is considered taxable income. To fix this flaw in America's insurance system, we need to provide incentives for insurers to set aside a portion of their policy premiums in secure reserve funds that will be available to meet policyholder needs in the event of future catastrophes. Our bill does just that.

The typical property and casualty insurance company in the United States faces extraordinary levels of catastrophic risk. This risk can take the form of major disasters that occur only once in a decade or once in several decades (e.g., severe earthquakes, major hurricanes). These can also be in the form of localized natural disasters (e.g., tornadoes, wildfires, floods, winter storms) that cause unusually large policyholder losses in a region and imperil the ability of smaller insurance companies to help their policyholders in the area.

The nation's exposure to these large natural disasters is staggering. While millions of families and small businesses rely on insurance payments to recover from natural disasters, it is important to remember that—under our current insurance tax and regulatory systems—many private insurers may not be able to pay all claims arising from a major disaster. Hurricane Andrew alone left property insurers with $16 billion in claims and opened our eyes to the country's massive exposure to catastrophic losses. Insured losses in my state from Hurricane Andrew exceeded $15 billion. But if this storm had passed over Miami, rather than Homestead just 40 miles south, the losses would have reached $50 billion, leaving the Florida economy crippled and more than a third of all insurers in that market insolvent.

There is always the potential for a major disaster in any given year in the United States. Estimates of insured losses from highly probable events range from about $75 billion in California and Florida to $300 billion or more in areas of the Midwest. The Gulf, Intermountain, and Atlantic states all face exposures of approximately $20 billion or more.

Unfortunately, our current system of tax laws and accounting rules work against consumers and taxpayers because they discourage risk and protect the companies for the payment of policyholder claims arising from catastrophic events. The tax law should be revised in order to make accommodation for disaster protection reserves and bring about a more practical, and sensible, system for insurance companies and consumers.

Under the Policyholder Disaster Protection Act, insurers could set aside portions of policyholder payments in a tax-deferred disaster protection fund. Amounts from this fund used to pay for losses from a major disaster would be subject to taxation. This concept is similar to programs presently in place in many other developed countries. I believe this legislation would result in greater stability for insurers providing catastrophic coverage and fewer insolvencies after a major disaster. A recent study by major insurers found that setting aside 2% of their net revenues would be approximately $21 billion in pre-funded reserves would be accumulated within the first ten years of the program.
Also, the tax incentive in the bill will encourage insurers to serve disaster-prone areas in a responsible manner by setting aside funds to pay for major losses.

The treatment of the fund by insurers will be closely regulated. Following is a general description of the provisions of the bill:

Insurers would be able to set aside special tax-deferred reserves to cover potential catastrophic events. The maximum amount any insurer could set aside in a given year would be determined by reference to each insurance company’s exposure to the risk of catastrophic loss events.

Deductible contributions to disaster protection funds would be voluntary, but would be irrevocable once made (except to the extent of “drawdowns” for actual catastrophic loss events, or drawdowns otherwise required by state insurance regulators). No company could lose its tax funds to shelter income from taxation.

The maximum allowable reserve for any given company will increase or decrease as they enter or exit lines of business that pose catastrophic risk.

Insurers would only be allowed to drawdown the disaster reserves if the loss event in question is declared an emergency or disaster by certain recognized bodies or government officials (for example, a disaster declared by the President under the Stafford Act) and that loss amount exceeds a specified high level. The amounts distributed from the fund are added to company’s taxable income for the year in which the drawdown occurred.

Insurance companies would pay taxes on income generated when funds in the disaster reserve are invested. This income would be distributed out of the fund to the insurance company and taxed to the company on a current basis.

The maximum reserve (or “cap”) would be phased in at the rate of five percent per year over 20 years. Industry estimates indicate private reserves of $40 billion would be built up over this time.

Various concepts to address the problem of catastrophic losses have been proposed over the years. I look forward to working with all of my colleagues to craft a comprehensive solution to both the short-term and long-term problems presented by the risk of catastrophic disasters. In my view, the private-sector focus of this bill, which puts a strengthened private insurance market for consumers in the forefront of disaster protection, is an approach designed to ensure disaster relief is efficient and cost-effective for taxpayers. While the federal government may still need to provide last-resort safety net for disaster victims, it is important to do what we can to ensure private insurance is available, affordable and secure for the citizens in those areas of the country at risk to a catastrophic disaster. This bill will help to bring precisely that availability, affordability and security to insurance policyholders throughout the country, and I believe it is worthy of support and consideration.

The bill we’re introducing today mirrors a bill introduced by Congressman Foley and his colleagues in the House. It is also supported by taxpayer, homeowner, consumer, business and emergency service organizations, as well as local and state policy makers and insurance organizations. I believe the voluntary approach is a sensible approach and I hope my colleagues will join me in this effort.

Mr. JEFFORDS (for himself, Mr. CRAPO, Mr. MURkowski, Mr. SCHUMER, Mr. HARKIN, Mr. BRYAN, Mr. BURNS, and Mr. REID):

S. 1456. A bill to enhance the services provided by the Environmental Protection Agency to small communities that are attempting to comply with national, State, and local environmental regulations; to the Committee on Environment and Public Works.

SMALL COMMITTEE ASSISTANCE ACT OF 1999

Mr. JEFFORDS. Mr. President, for years small communities across the United States have labored to meet environmental regulations written for major cities. They have struggled unduly with complicated regulations designed for Chicago or Los Angeles.

Today I am introducing legislation designed to end this problem: the Small Community Assistance Act of 1999.

We who live in small towns such as my home town of Shrewsbury, Vermont are proud of our community and our environment. We want to comply with reasonable health and environmental standards in order to leave a healthy legacy for our children. But we do not have the staff or financial capacity of larger communities to respond to far-reaching regulations. We are concerned about standards written without consideration for the special circumstances small towns in America face. While we recognize the importance of environmental regulations in safeguarding our air and water, we need the ability to respond intelligently to local priorities and needs. We want to comply with environmental regulations, but we need some flexibility in order to comply in a reasonable manner. We do not want preferential treatment, we want treatment that recognizes our unique size and fiscal situation.

In 1991, I authored the Small Town Environmental Planning Act. This act passed overwhelmingly in the House and Senate and was signed into law by President Bush in 1992. This act mandated that the Environmental Protection Agency give more assistance to small towns. It created a task force comprised of representatives from small communities across the nation.

These small town representatives developed a list of ways in which the EPA can better help small towns enjoy and maintain a healthy environment.

It is now time to take their advice. The Small Community Assistance Act of 1999 will give much needed assistance to small towns and communities in Vermont and across the nation. This bill will give small communities more time to comply with environmental regulations. It also includes a clear and simple environmental guidelines, and more assistance in meeting environmental obligations.

This legislation acts on the recommendations of people from small communities across the United States. Small community members provided the impetus for this bill, helped write the bill itself, and provided numerous helpful comments. To these small community members I offer my sincere appreciation. I would especially like to thank the members of EPA’s Small Community Advisory Subcommittee for all of their help, and I thank the committee for its unanimous endorsement of this bill.

I would like to name the original cosponsors of this bill, Senators CRAPO, MURKOWSKI, SCHUMER, HARKIN, BRYAN, BURNS, and REID. Their leadership on this bill underscores their dedication to helping people in our small towns. I urge every one of my colleagues to cosponsor this bill, to improve the quality of life and further environmental protections in our small communities nationwide.

Mr. REID. Mr. President, I am pleased to join today with a geographically and politically diverse group of Senators to introduce the Small Community Assistance Act of 1999. I commend Senator JEFFORDS for investing his time and energy in developing this important legislation. This Small Community Assistance Act will help ensure that small towns all across America are included in a combined local, state, and national effort to protect the environment.

This bill would help increase communities’ cooperation and cooperation between the U.S. Environmental Protection Agency and smaller communities. By establishing a Small Town Ombudsman Office within EPA, this bill will ensure that communities with less than 7500 residents have improved access to the technical expertise and information that are necessary for small towns to cost effectively protect the quality of their air and water and their citizens’ health.

Incorporating the perspectives of a Small Community Advisory Committee early in the development of EPA’s environmental policies, this bill will improve the working relationship between small towns and EPA and ultimately strengthen environmental protection.

The Small Community Advisory Committee will build on the valuable work already done by EPA’s Small Community Task Force, which includes representatives from environmental agencies, and public interest groups from across the country. Cherie Aiazzi of Carlin, a town of about 2800 people in northern Nevada, contributed...
The death penalty is a deterrent for children's conduct, as well as that of rural towns across the country are better understood as a result of her efforts.

By coincidence of history and geography, Nevada is a state with more small towns than big cities. In our efforts to enhance the quality of life for all Nevadans, it is crucial that small communities play an important role in the development and achievement of our environmental goals. The Small Communities Development Act of 1999 provides an invaluable opportunity for small towns to contribute to and benefit from this important effort.

By Mr. FEINGOLD:

S. 1917. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

The Federal Death Penalty Abolition Act of 1999

Mr. FEINGOLD, Mr. President, I rise today to introduce the Federal Death Penalty Abolition Act of 1999. This bill will abolish the death penalty at the federal level. It will put an immediate halt to executions and forbid the imposition of the death penalty as a sentence for violations of federal law.

Since the beginning of this year, this Chamber has echoed with debate on violence in America. We've heard about violence in our schools and neighborhoods, it's because the availability of guns to minors. Some say Hollywood has contributed to a culture of violence. Others argue that the roots of the problem are far deeper and more complex. Whatever the causes, a culture of violence has certainly infected our nation. As schoolhouse killings have shown, our children now can be reached by that culture of violence. And they aren't just casual observers; some of them are active participants and many have been victims.

But, Mr. President, I'm not so sure that we in government don't contribute to this casual attitude we sometimes see toward killing and death. With each new death penalty statute enacted and each execution carried out, our executive, judicial and legislative branches, at both the state and federal level, add to a culture of violence and killing. When each person executed, we're teaching our children that the way to settle scores is through violence, even to the point of taking a human life.

At the same time, the public debate on the death penalty, which was an intense national debate not very long ago, is muted. As the online magazine Slate recently said, it's because of the availability of guns to minors. Some say Hollywood has contributed to a culture of violence. Others argue that the roots of the problem are far deeper and more complex. Whatever the causes, a culture of violence has certainly infected our nation. As schoolhouse killings have shown, our children now can be reached by that culture of violence. And they aren't just casual observers; some of them are active participants and many have been victims.

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of adult Americans? For those who believe capital punishment is a deterrent, they are sadly, sadly mistaken. The federal government and most states in the U.S. have a death penalty, while our European counterparts do not. Following the release of prisoners who believe it’s a deterrent, you would think that our European allies, who don’t use the death penalty, would have a higher murder rate than the United States. Yet, they don’t and it’s even lower. In fact, the murder rate in the U.S. is six times higher than the murder rate in Britain, seven times higher than in France, five times higher than in Australia, and five times higher than in Sweden.

But we don’t even need to look across the Atlantic to see that capital punishment has no deterrent effect on crime. Let’s compare Wisconsin and Texas. I’m proud of the fact that my great state, Wisconsin, was the first state in this nation to abolish the death penalty completely, when it did so in 1853. Wisconsin has been death penalty-free for nearly 150 years. In contrast, Texas is the most prodigious user of the death penalty, having executed 392 people since 1976. Let’s look at the murder rate in Wisconsin and Texas. During the period 1995 to 1998, Texas has had a murder rate that is nearly double the murder rate in Wisconsin. This data alone calls into question the argument that the death penalty is a deterrent to murder.

In fact, according to a 1995 Hart Research poll, the majority of our nation’s police chiefs do not believe the death penalty is a particularly effective law enforcement tool. When asked to rank the various factors in reducing crime, police chiefs ranked the death penalty last. Rather, the police chiefs — the people who deal with hardened criminals day in and day out — cite reducing drug abuse as the primary factor in crime reduction, along with better economy and jobs, simplifying court rules, longer prison sentences, more police officers, and reducing guns. It looks like most police chiefs recognize what our European allies and a few states like Wisconsin have known all along: the death penalty is not an effective deterrent.

Mr. President, let me be clear. I believe murderers and other violent offenders should be severely punished. I’m not seeking to open the prison doors and let murderers come rushing out into our communities. I don’t want to free them. The question is: should the death penalty be a means of punishment in our society? One of the most frequent refrains from death penalty supporters is the claim that the majority of Americans support the death penalty. It’s repeated so often, everybody assumes it’s true. Mr. President, the facts do not support this claim. Survey after survey, whether the issue is a separate death penalty for children, rape, or murder of a woman or just the murder of a woman, shows that when offered sentencing alternatives, more Americans prefer life without parole plus restitution for the victim’s family over the death penalty. For example, a 1993 national poll found that when offered alternatives to the death penalty, 44% of Americans supported the alternative of life without parole plus restitution over the death penalty. Only 41% preferred death penalty and 15% were unsure. This is remarkable.

Sure, if you ask Americans the simple, isolated question of whether they support the death penalty, a majority of Americans will agree. But if you ask them about alternatives to death penalty or a realistic, practical alternative sentence like life without parole plus restitution, support for the death penalty falls dramatically to below 50%. More Americans support the alternative sentence than Americans who support the death penalty.

The fact that our society relies on killing as punishment is disturbing enough. Even more disturbing, however, is the fact that the States’ and Federal use of the death penalty is often not consistent with the principles of due process, fairness and justice. These principles are the foundation of our criminal justice system and, in a broader sense, the stability of our nation. It is clearer than ever before that the death penalty is a particular injustice that innocent people are sent to death. In addition, those States that have the death penalty are more likely to put people to death for killing white victims than for killing black victims. Mr. President, are we certain that innocent people are not being executed? Obviously not. Are we certain that racial bias is not infecting the criminal justice system and the administration of the death penalty? I doubt it. It simply cannot be disputed that we are sending innocent people to death. Since the modern death penalty was reinstated in the 1970s, we have released 79 men and women from death row. Why? Because they were innocent. Seventy-nine men and women sitting on death row were innocent, and yet they were about to be killed. What a disgrace when we put them to death. If an innocent man or woman has to spend even one day in jail, that’s a staggering injustice that innocent people are sentenced to death for crimes they did not commit. What a disgrace when we carry out these sentences, actually taking the lives of innocent people in the name of justice.

I call my colleagues’ attention to the recent example of an Illinois death row inmate, Ronald Jones, who had been sitting on death row for 16 years and had been convicted of raping and murdering a Chicago woman. After a lengthy interrogation in which Mr. Jones was beaten by police, he signed a confession. As a class assignment, a group of Northwestern University journalism students researched the case of Ronald Jones. What did they learn? They learned that Mr. Jones was clearly innocent and not for some technical reason—he just didn’t do it. As a result of this work, Mr. Jones was later exonerated based on DNA evidence. Mr. President, our criminal justice system sent an innocent man to death row. Mr. Jones was tried and convicted in a justice system that sometimes gets it right and sometimes just gets it wrong. And Mr. Jones is not alone. In Illinois alone, three death row inmates so far this year have been proven innocent. Since 1987, Illinois has freed 12 inmates from death row because they were later found innocent.

Innocent, Mr. President, and they were sitting on death row. Innocent, and yet they were about to be killed. Why? Because our criminal justice system is so often not consistent with principles of due process, fairness and justice. These principles are the foundation of our criminal justice system and, in a broader sense, the stability of our nation. It is clearer than ever before that the death penalty is a particularly unjust punishment that cannot be undone to correct mistakes. One disturbing decision was issued by the Supreme Court just a few months ago. In Jones v. United States, which involved an inmate on death row in Texas and the interpretation of the 1994 Federal Death Penalty Act, the judge refused to tell the jury that if they deadlocked on the sentence, the law required the judge to impose a sentence of the defendant’s sentence, death. As a result, the judge, I believe, was under the grave misunderstanding that lack of unanimity would mean the judge could give a sentence where the
defendant might one day go free. The Supreme Court, however, upheld the lower court’s imposition of the death penalty. And one more person will lose a life, when a simple correction of a misunderstanding could have resulted in a substantially correct sentence of life without parole.

As legal scholar Ronald Dworkin recently observed, “[t]he Supreme Court has become impatient, and super due process has turned into due process lite. Its impatience is understandable, but is also unacceptable.” Mr. President, America’s impatience with the protracted appeals of death row inmates is understandable. But this impatience is unacceptable. The rush to judgment is unacceptable. And the rush to execute men, women and children who might well be innocent is horrifying.

The discovery of the innocence of death row inmates and misguided Supreme Court decisions disallowing potential exculpatory evidence, however, aren’t the only reasons we need to abolish the death penalty. Another reason we need to abolish the death penalty is the continuing racism in our criminal justice system. Our nation is facing a crucial test. A test of fairness and justice to our criminal justice system. Let’s have the courage to recognize our human fallibilities. Let’s put a halt to capital punishment.

The American Bar Association agrees. In 1997, the American Bar Association called for a moratorium on the death penalty because it found that the application of the death penalty raises concerns about fairness and due process concerns. Several states are finally beginning to recognize the great injustice when the ultimate punishment is carried out in a biased and unfair way. Moratoriums have been considered by the legislatures of at least ten states over the last several months. The legislatures of Illinois and Nebraska have made the most progress. They actually passed moratorium measures earlier this year. Many states are formally taking steps to correct the practice of legalized killing that was again unleashed by the Supreme Court’s Gregg decision in 1976. The first post-Gregg execution took place in 1977 in Utah, when Gary Gilmore did not challenge and instead aggressively sought his execution by a firing squad. The first post-Gregg involuntary execution took place on May 25, 1973. I vividly remember that day. I had just finished my fourth year of law school. On that morning, later that day, I recall turning on the television and watching the news report that Florida had just executed John Spenkelink. I was overcome with a sickening feeling. Here I was, fresh out of law school and firm in my belief that our legal system was advancing through the latter quarter of the twentieth century. Instead, to my great dismay, I was witnessing a throwback to the electric chair, the gallows, and the routine executions of our nation’s most disadvantaged.

Mr. President, I haven’t forgotten that experience or what I thought and felt on that day. At the end of 1999, at the end of a remarkable century and millennium of progress, I cannot help but believe that our progress has been tarnished with our nation’s not only continuing, but increasing use of the death penalty. As of today, the United States has executed 984 people since the reinstatement of the death penalty in 1976. In those 23 years, there has been a sharp rise in the number of executions. This year the United States has already set a record for the most executions in our country in 20 years. Since 1984—the latest execution being that of Thomas Lee Royal, Jr., who was executed by lethal injection just last night by the state of Virginia. And the year isn’t even over yet. We are on track to far exceed the number of executions in 1998, the year with the highest number of executions in the history of the death penalty. This is astounding and it is embarrassing. We are a nation that prides itself on the fundamental principles of justice, liberty, equality and due process. We are a nation that scrutinizes the use of capital punishment. We are one of the first nations to speak out against torture and killings by foreign governments. It is time for us to look in the mirror.

Two former Supreme Court justices did just that. Justice Harry Blackmun penned the following eloquent dissent in 1994:

From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored—indeed, I have struggled—along with a majority of this Court, to develop procedural and substantive regulations that will ensure the mere appearance of fairness to the death penalty endeavor. Rather than continue to codify the Court’s delusion that the desired fairness has been achieved, the need for regulation erverescised, I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed. It is virtually self-evident to me now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies. These deficiencies does the system accurately and consistently determine which defendants “deserve” to die?—cannot be answered in the affirmative. The problem is that the system is incapable of applying reliably, in a fair, consistent, and reliable way the death penalty as a form of cruel and unusual punishment. He also wrote the decision in McCleskey v. Kemp in 1987, which denied a challenge to the death penalty on the grounds that it was applied in a discriminatory manner against African Americans. In 1991, however, Justice Powell told his colleagues that he had decided that capital punishment should be abolished.

After sitting on our nation’s highest court for over 20 years, Justice Blackmun and Justice Powell came to understand that the randomness of the death penalty. Mr. President, it is time for our nation to follow the lead of the two distinguished jurists and
revisit its support for this form of punishment.

At the end of 1999, as we enter a new millennium, our society is still far from fully just. The continued use of the death penalty demeans us. The death penalty is a veil for our society with the glories of past traditions. It is wrong and it is immoral. The adage "two wrongs do not make a right," could not be more inappropriate here. Our nation has long ago done away with other barbaric punishments, yet continuing to hang off the ears of suspected criminals. Just as our nation did away with these punishments as contrary to our humanity and ideals, it is time to abolish the death penalty as we enter the next century. And it's not just a matter of morality. Mr. President, the continued viability of our justice system as a truly just system requires that we do so. And in the world's eyes, the ability of our nation to say truthfully that we are the leaders and defenders of freedom, liberty and equality demands that we do so.

I ask my colleagues to join me in taking the first step in abolishing the death penalty in our great nation. Today, I introduce a bill that abolishes the death penalty at the federal level. I call on all states that have the death penalty to also cease this practice. Let us step away from the culture of violence and restore fairness and integrity to our justice system. I close with this reminder to my colleagues. Where would our nation be if members of Congress were followers, not leaders, of public opinion? We, of course, would still be living with slavery, segregation and without a woman's right to vote. Like abolishing slavery and segregation and establishing a woman's right to vote, abolishing the death penalty will not be an easy task. It will take patience, persistence and courage. As we head into the next millennium, let us lead the practice of our beliefs.

Mr. President, I ask that the text of the bill be printed in the Record. The bill follows:

S. 1917

B e it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the "Federal Death Penalty Abolition Act of 1999".

SEC. 2. REPEAL OF FEDERAL LAWS PROVIDING FOR THE DEATH PENALTY.

(a) HOMICIDE-RELATED OFFENSES.--
(1) TO THE SMUGGLING OF ALIENS.--Section 274(a)(1)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(B)(iv)) is amended by striking "punished by death," and all that follows before the period at the end and inserting "authorized by striking "by death," and all that follows before the period at the end and inserting "by death, or".

(b) DESTRUCTION OF AIRCRAFT, MOTOR VEHICLES, OR RELATED FACILITIES RESULTING IN DEATH.--Section 34 of title 18, United States Code, is amended by striking "to the death penalty or".

(c) MURDER COMMITTED DURING A DRUG-RELATED DRIVE-BY SHOOTING.--Section 36(b)(2)(A) of title 18, United States Code, is amended by striking "death or".

(d) MURDER COMMITTED AT AN AIRPORT SERVING INTERNATIONAL CIVIL AVIATION.--Section 399 of title 18, United States Code, is amended, in the matter following paragraph (2), by striking "punished by death or".

(e) CIVIL RIGHTS OFFENSES RESULTING IN DEATH.--Chapter 13 of title 18, United States Code, is amended--
(1) in section 241, by striking "or", or may be sentenced to death; or";
(2) in section 242, by striking "or", or may be sentenced to death; or";
(3) in section 245(b), by striking "or", or may be sentenced to death; or";
(4) in section 247(d)(1), by striking "or", or may be sentenced to death; or";
(5) in section 34 of title 18, United States Code, is, amended--
(A) in subsection (b)(2), by striking "death or"; and
(B) in subsection (d)(2), by striking "by death or".

(f) DEATH RESULTING FROM OFFENSES INVOLVING TRANSPORTATION OF EXPLOSIVES, DESTRUCTION OF GOVERNMENT PROPERTY, OR DESTRUCTION OF PROPERTY RELATED TO FOREIGN OR INTERSTATE COMMERCE.--Section 844 of title 18, United States Code, is amended--
(A) in subsection (d), by striking "or to the death penalty; or";
(B) in subsection (f)(3), by striking "subject to the death penalty, or;"
(C) in subsection (i), by striking "or to the death penalty; and";
(D) in subsection (n), by striking "(other than the penalty of death)".

(g) MURDER COMMITTED WITH THE INTENT OF PREVENTING OWNERSHIP OR CONTROL OF VIOLENT OR A DRUG TRAFFICKING CRIME.--Section 924(a)(1) of title 18, United States Code, is amended by striking "by death or".

(h) GENOCIDE.--Section 1001(b)(1) of title 18, United States Code, is amended by striking "death or".

(i) FIRST DEGREE MURDER.--Section 1111(b) of title 18, United States Code, is amended by striking "by death or".

(j) MURDER BY A FEDERAL PRISONER.--Section 1118 of title 18, United States Code, is amended--
(A) in subsection (a), by striking "by death or";
(B) in subsection (b), in the third undesignated paragraph--
(i) by inserting "or" before "an indeterminate; and"
(ii) by striking ", or an unexecuted sentence of death.");

(k) MURDER OF A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR OTHER PERSON AIDING IN A FEDERAL INVESTIGATION; MURDER OF A STATE CORRECTIONAL OFFICER.--Section 1121 of title 18, United States Code, is amended--
(A) in subsection (a), by striking "by sentence of death; and"
(B) in subsection (b)(1), by striking "or death".

(l) MURDER DURING A KIDNAPPING.--Section 1201(a) of title 18, United States Code, is amended by striking "death or".

(m) MURDER DURING A HOSTAGE-TAKING.--Section 1203(a) of title 18, United States Code, is amended by striking "by death or".

(n) MURDER DURING A CRIME OF VIOLENCE AGAINST A MARITIME FIXED PLATFORM.--Section 1204(a) of title 18, United States Code, is amended by striking "punished by death or".

(o) MURDER COMMITTED AGAINST A MARITIME NAVIGATION.--Section 1208(a)(1) of title 18, United States Code, is amended by striking "by death or".

(p) MURDER COMMITTED AGAINST MARITIME FIXED PLATFORM.--Section 1208(a)(1) of title 18, United States Code, is amended by striking "by death or".

(q) TERRORIST MURDER OF A UNITED STATES NATIONAL IN ANOTHER COUNTRY.--Section 1232(a)(1) of title 18, United States Code, is amended by striking "punished by death or".

(r) MURDER COMMITTED AGAINST A STATE, LOCAL, OR MARITIME LAW ENFORCEMENT OFFICER.--Section 1346 of the Controlled Substances Act (21 U.S.C. 846B) is amended--
(A) in each of subparagraphs (A) and (B) of subsection (e)(1), by striking "or may be sentenced to death";
(B) by striking subsections (g) and (h) and inserting the following:

"(g) [Reserved]."

"(h) [Reserved]."

(C) in subsection (j), by striking " and as to appropriateness in that case of imposing a sentence of death";

(D) in subsection (k), by striking "other than death," and all that follows before the period at the end and inserting "authorized by law; and"

(E) by striking subsections (l) and (m) and inserting the following:

"(l) [Reserved]."

"(m) [Reserved]."

(B) in subsection (b)(1)(B), by striking "put to death or".
Mr. President, to date, 10 individuals and 44 organizations—groups involved with AIDS, cerebral palsy, Alzheimer’s Disease, hospice care, and diabetes, among others—have endorsed this legislation.

Mr. President, I encourage my colleagues to look at this list of supporters, look at the bill, and join me in correcting a problem that is denying health care benefits to thousands of Americans.

Mr. President, I ask unanimous consent that the text of the bill and a list of endorsements be printed in the Record.

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

S. 1918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “Medicare for Individuals With Terminal Illnesses Act of 1999.”

SEC. 2. ELIMINATION OF MEDICARE WAITING PERIOD FOR INDIVIDUALS WITH A TERMINAL ILLNESS.

(a) In General.—Section 226 of the Social Security Act (42 U.S.C. 1395y(b)(1)(B)(i)) is amended by striking “section 226(b)” and inserting “subsection (b) or (j) of section 226.”

(b) Persons Sentenced Before Date of Enactment.—Notwithstanding any other provision of law, no person sentenced to death before the date of enactment of this Act for any violation of Federal law shall serve a sentence of life imprisonment without the possibility of parole.

By Mrs. BOXER:

S. 1918. A bill to waive the 24-month waiting period for disabled individuals to qualify for Medicare benefits in the case of individuals suffering from terminal illness with not more than 2 years to live; to the Committee on Finance.

MEDICARE FOR INDIVIDUALS WITH TERMINAL ILLNESS ACT

Mrs. BOXER. Mr. President, today I am introducing legislation to correct a weakness in the Medicare law for those who develop a terminal illness.

Under current law, individuals under age 65 who are unable to work because of a disability can qualify for Medicare after a two-year waiting period. That is, two years after developing a disability, individuals can start to receive Medicare benefits to help pay for their health care.

There are reasons for this two-year waiting period, and this legislation would not change that. What I am concerned about, Mr. President, is the fact that thousands of individuals develop a disability that is terminal within two years.

I am talking about people with cancer, people with AIDS, people with Lou Gehrig’s Disease, to name just a few examples. In some cases, when these individuals are diagnosed and can no longer work, they have less than two years to live. That means they will die before the end of the waiting period, before they become eligible for Medicare, before they qualify to receive Medicare benefits. That is not right and not fair.

The Medicare for Individuals with Terminal Illness Act would change this. My bill would say that for people whose doctors expect them to live less than two years because of their disability or because there will be no waiting period. They would qualify for Medicare immediately and could get the health care they need.
be an enemy of theirs completely, but that you cannot travel 90 miles off our shore to Cuba, is a mistake.

To this day, some Iranian politicians believe the United States to be “the Great Satan.” We hear it all the time. I just want to thank those in Cuban block and took innocent American diplomats hostage. To this day, protesters in Tehran burn the American flag with the encouragement of some officials in that Government. Those few Americans who venture into such inhospitable often find themselves pelted by rocks and accosted by the public.

Similarly, we do not ban travel to Sudan, a nation we attacked with cruise missiles last summer for its support of terrorism; to Burma, a nation with one of the most oppressive regimes in the world today; to North Korea, whose soldiers have peered at American servicemen through gun sights for decades; or Syria, which has one of the most egregious human rights records and is one of the foremost sponsors of terrorism.

We believe that it is time to end the inconsistency with respect to U.S. citizens who can travel to Cuba and not to certain other nations, which are our enemies. Surely we do not ban travel to Cuba out of concern for the safety of Americans who might visit that island nation. Today Americans are free to travel to Iran, Sudan, Burma, Yugoslavia, North Korea—but not to Cuba. You can fly to North Korea; you can fly to Iran; you can travel freely. It seems to me if you can go to those countries, you ought not be denied the right to go to Cuba. If the Cubans want to stop Americans from visiting that country, that ought to be their business. But to say to an American citizen that he cannot travel to Iran, where they held American hostages for months on end, to North Korea, which has declared us to
Under current regulations, who decides whether a researcher's work is legitimate? Who decides whether a freelance journalist is really conducting journalistic activities? Who decides whether or not a professor or student is participating in a "structured educational program"? Who decides whether a religious person is really going to conduct religious activities? Government bureaucrats are making those decisions about what I believe should be personal rights of American citizens.

It is truly unsettling, to put it mildly, when you think about it, and probably unconstitutional at its core. It is a real intrusion on the fundamental rights of American citizens. It also says something about what we as a Government think about our own people. Do we really believe that a journalist, a Government official, a Senator, a Congressman, a baseball player, a ballerina, a college professor or minister is somehow superior to other citizens who do not fall into those categories; that only those categories of people are "good examples" for the Cuban people to observe in order to understand American values? I do not think so. I find such a notion insulting. There is no better way to communicate America's values and ideals than by unleashing average American men and women to demonstrate by daily living what our great country stands for and the contrasts between what we stand for and what exists in Cuba today.

I do not believe there was ever a sensible rationale for restricting Americans' right to travel to Cuba. With the collapse of the Soviet Union and an end to the cold war, I do not think any excuse remains today to ban this kind of travel. This argument that dollars and tourism will be used to prop up the regime is spurious. The regime seems to have worked well despite the failure of the Cuban embargo during that entire period. The notion that allowing Americans to spend a few dollars in Cuba is somehow going to give major aid and comfort to the Cuban regime is specious. The regime seems to exist in Cuba today.

By Mr. LEVIN (for himself and Mr. SPECTER):

S. 1920. A bill to combat money laundering and protect the United States financial system by addressing the vulnerabilities of private banking to money laundering, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MONEY LAUNDERING ABATEMENT ACT OF 1999

Mr. LEVIN. Mr. President, today I am introducing, along with Senator SPECTER, the Money Laundering Abatement Act of 1999.

The Senate Permanent Subcommittee on Investigations, of which I am the ranking member, is currently holding hearings on problems specific to private or shadow banking that is growing to be a financial service in which banks provide one-on-one services tailored to the individual needs of wealthy individuals. The Subcommittee's investigations and hearings show that private banks have operated in a culture which encourages secrecy, impeding account documentation for regulators and law enforcement entities. This culture makes private banking peculiarly susceptible to money laundering.

The Money Laundering Abatement Act is intended to supplement and reinforce the current anti-money-laundering laws and bolster the efforts of regulators and law enforcement bodies in this nation and around the world and the efforts of others in Congress.

The Subcommittee's long investigation and testimony by distinguished financial experts, regulators, and banking industry personnel, revealed that private banks regularly create devices such as shell corporations established in offshore jurisdictions to hide the source of and movement of clients' funds. The motives may be benign or they may be questionable, but one thing is certain: they make it harder for regulators and law enforcement agencies to track the ownership and flow of funds and arrest or apprehend launderers of the proceeds of drug and weapons trafficking, tax evasion, corruption, and other malfeasance. To make matters worse, many activities which Americans find reprehensible and which can destabilize regimes and economies are not currently illegal under foreign laws. Therefore, as the current money laundering laws are written, transactions in which the proceeds of drug and weapons trafficking, tax evasion, corruption, and other malfeasance are being hidden, laundered, or otherwise laundered, but they ought to constitute money laundering punishable under United States laws.

My bill would patch these holes, particularly as they apply to private banking activities, the volume of which experts predict will grow exponentially as more and more wealth is created and banks compete for this lucrative line of business. Accordingly, I am today introducing legislation that would significantly increase the transparency of our banking system and make it possible for law enforcement and civil process to pierce the veil of secrecy that for too long has made it possible for institutions and individuals operating in largely unregulated offshore jurisdictions to gain unfettered access to the U.S. financial system for purposes of legitimizing the proceeds of illegal or unsavory activity.

A great problem in detecting money laundering is that many private banking transactions are conducted through fictitious entities or under false names or numbered accounts in which the actual or beneficial owner is not identified. The bill requires a financial institution that opens or maintains a U.S. account for a foreigner to determine and maintain a record in the U.S. of the identity of each direct or beneficial owner of the account. The bill would further help banks in verifying customers' identities by making it illegal to counterfeit the true owner of an account to a bank. The bill also imposes a "48-hour rule" under which, within 48 hours of a request by a federal banking agency, a financial institution would have to provide account information and documentation to the agency.

Our investigation into private banking has shown that money launderers may launder their transactions by commingling the proceeds in so-called "concentration accounts" and aggregate the funds from multiple customers and transactions. The bill curtails the illicit use of these accounts by prohibiting institutions from using these accounts to conceal or mask the proceeds or ownership of accounts and transactions. The bill also prohibits U.S. financial institutions from opening or maintaining correspondent accounts with so-called "brass plate" banks—most often in off-shore locations—that are not licensed to provide services in their home countries and are not subject to comprehensive home country supervision on a consolidated basis, reducing the likelihood that U.S.-based institutions will receive funds that may derive from illicit sources.

The bill would also eliminate significant gaps in current U.S. law by expanding the list of crimes committed on foreign soil that can serve as predicate offenses for money laundering and for other offenses in the U.S. A significant concern is money laundering and corruption and the misappropriation of IMF funds. The bill introduced today would expand the jurisdiction of U.S. courts, by including transactions in which money is laundered through foreign banks as a "nexus" in the United States. The bill addresses the reality that governmental corruption weakens economies.
and causes political instability and when U.S. banks profit from the fruits of such corruption they run counter to U.S. interests in ending such corruption.

Another problem that we have encountered repeatedly in our investigations is that many private banks have written policies that repeatedly stress that the banker must know a customer's identity and source of funds. Yet in practice, many private bankers do not comply with their own bank's policies. One bank told me that they lack a database that would automatically alert them to suspicious activity. However, FinCEN officials have told me that they lack a database which could indicate money laundering or other illicit activity. Such a database is imperative to enable FinCEN to adequately serve the law enforcement bodies that it supplies information to.

This bill will close gaps in anti-money laundering laws and regulations. I ask unanimous consent that 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. 1200

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 "Money Laundering Abatement Act of 1999".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Money laundering is a serious problem that enables criminals to reap the rewards of their crimes by hiding the criminal source of their profits. (2) When carried out by using banks, money laundering erodes the integrity of our financial institutions. (3) U.S. financial institutions are a critical link in our efforts to combat money laundering. (4) In addition to organized crime enterprises, corrupt government officials around the world increasingly employ sophisticated money laundering schemes to conceal wealth they have plundered or extorted from their nations or received as bribes, and these practices weaken the legitimacy of foreign states, threaten the integrity of international financial markets, and harm foreign policy interests.

(b) PRIVATE BANKING. — Private banking is a growing activity among financial institutions based in and operating in the United States. (6) Foreign employees, competition, high level of secrecy, and close relationships of trust developed between private bankers and their clients make private banking vulnerable to money laundering. (7) The use by United States bankers of financial centers located outside of the United States is helping to weaken financial regulations and reporting regimes and no transparency facilitates global money laundering. (b) PURPOSE.—The purpose of this Act is to eliminate the Government of Federal laws that allow money laundering to flourish, particularly in private banking activities.

SEC. 3. IDENTIFICATION OF ACTUAL OR BENEFICIAL OWNERS OF ACCOUNTS.

(a) TRANSACTIONS AND ACCOUNTS WITH OR ON BEHALF OF FOREIGN ENTITIES.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following:

§ 5331. Requirements relating to transactions and accounts with or on behalf of unidentified owners. (a) Definitions.—Notwithstanding any other provision of this subchapter, in this section the following definitions shall apply: (1) ACCOUNT.—The term 'account' means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions, and (B) includes a demand deposit, savings deposit, or other asset account and a credit account or other extension of credit. (b) CORRESPONDENT ACCOUNT. — The term 'correspondent account' means an account established to receive deposits from and make payments on behalf of a correspondent bank. (c) FOREIGN BANKING INSTITUTION. — The term 'foreign banking institution' means a financial entity that engages in the business of banking, and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking, and the activities of banks and such other activities as the Secretary of the Treasury determines by regulation to be of a type or nature associated with the banking business. (d) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 18(b)(1)(A) of the Federal Reserve Act. (e) FOREIGN BANKING INSTITUTION.—The term 'foreign banking institution' means a financial entity that engages in the business of banking, and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking, and the activities of banks and such other activities as the Secretary of the Treasury determines by regulation to be of a type or nature associated with the banking business. (f) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 18(b)(1)(A) of the Federal Reserve Act. (g) FOREIGN ENTITY.—The term 'foreign entity' means a natural person, or a legal entity organized under the laws of a foreign country, that is not organized under the laws of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, and accounts with or on behalf of such other financial institution.

(b) IDENTIFICATION OF ACTUAL OR BENEFICIAL OWNER OF ACCOUNTS.—Section the following definitions shall apply: (1) ACCOUNT.—The term 'account' means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions, and (B) includes a demand deposit, savings deposit, or other asset account and a credit account or other extension of credit. (b) CORRESPONDENT ACCOUNT. — The term 'correspondent account' means an account established to receive deposits from and make payments on behalf of a correspondent bank. (c) FOREIGN BANKING INSTITUTION. — The term 'foreign banking institution' means a financial entity that engages in the business of banking, and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking, and the activities of banks and such other activities as the Secretary of the Treasury determines by regulation to be of a type or nature associated with the banking business. (d) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 18(b)(1)(A) of the Federal Reserve Act. (e) FOREIGN BANKING INSTITUTION.—The term 'foreign banking institution' means a financial entity that engages in the business of banking, and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking, and the activities of banks and such other activities as the Secretary of the Treasury determines by regulation to be of a type or nature associated with the banking business.

(c) 48-HOUR RULE.—Not later than 48 hours after receiving a request by the appropriate authorities in such jurisdiction for information related to anti-money laundering compliance by a financial institution or a customer of that institution, a financial institution shall provide the requesting agency, or make available at a location specified by the requesting agency, information and account documentation for any account opened, maintained, or managed in the United States by the financial institution. (d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5330 the following: "§ 5331. Requirements relating to transactions and accounts with or on behalf of unidentified owners. (a) Definitions.—Notwithstanding any other provision of this subchapter, in this section the following definitions shall apply: (1) ACCOUNT.—The term 'account' means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions, and (B) includes a demand deposit, savings deposit, or other asset account and a credit account or other extension of credit. (2) CORRESPONDENT ACCOUNT.—The term 'correspondent account' means an account established to receive deposits from and make payments on behalf of a correspondent bank. (3) FOREIGN BANKING INSTITUTION.—The term 'foreign banking institution' means a financial entity that engages in the business of banking and includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking and the activities of banks and such other activities as the Secretary of the Treasury determines by regulation to be of a type or nature associated with the banking business. (4) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 18(b)(1)(A) of the Federal Reserve Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply— (1) with respect to any account opened on or after the date of enactment of this Act, as of such date; and (2) with respect to any account opened before the date of enactment of this Act, as of the end of the 6-month period beginning on such date.

SEC. 4. PROPER MAINTENANCE OF CONCENTRATION ACCOUNTS AT FINANCIAL INSTITUTIONS.

Section 5318(h) of title 31, United States Code, is amended by adding at the end the following:

"(3) AVAILABILITY OF CERTAIN ACCOUNT INFORMATION.—The Secretary shall prescribe regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual with the accounts of which the customer is the direct or beneficial owner, which regulations shall, at a minimum— (A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution; (B) prohibit financial institutions and their employees from informing customers of the existence of, or means of identifying, the concentration accounts of the institution; and (C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving concentration accounts is conducted, the customer's identity and, specific amount belonging to, each customer is documented.

SEC. 5. DUE DILIGENCE REQUIRED FOR PRIVATE BANKING.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting at the end of chapter 53 of title 31, United States Code, the following:

"SEC. 5A. DUE DILIGENCE.

(a) PRIVATE BANKING.—In fulfillment of its anti-money laundering obligations under this Act and the regulations promulgated thereunder, each depository institution that engages in private banking shall establish due
diligence procedures for opening and reviewing, on an ongoing basis, accounts of private banking customers.

(b) MINIMUM STANDARDS. — The due diligence procedures required by paragraph (a) shall, at a minimum, ensure that the depository institution knows and verifies, through probative documentation, the identity and financial institution of each private banking customer. A financial institution shall be fined under this title, imprisoned for not more than 5 years, and/or be punished by fine for a violation of section 1028.

(3) makes or attempts to make, or attempts to use or present, any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry concerning the identity of any person in connection with a transaction with a financial institution; or

(4) uses or presents, or attempts to use or present, in connection with a transaction with a financial institution, an identification document or means of identification the possession of which is a violation of section 1028.

It would be a federal crime to knowingly falsify or conceal the identity of a financial institution customer.

SEC. 3. APPROPRIATION FOR FINCEN TO IMPLEMENT SAR/CTF ALERT DATABASE.

There is authorized to be appropriated $1,000,000, to remain available until expended, for the Financial Crimes Enforcement Network of the Department of the Treasury to implement an automated database that match financial institution and money laundering enforcement officials when multiple Currency Transaction Reports or Suspicious Activity Reports disclose patterns of activity that may be included in any instance in which multiple Currency Transaction Reports or Suspicious Activity Reports name the same individual within a prescribed period of time.

SEC. 4. LONG-ARM JURISDICTION OVER FOREIGN MONEY LAUNDERERS.

There is authorized to be appropriated $1,000,000, to remain available until expended, for the Financial Crimes Enforcement Network of the Department of the Treasury to implement an automated database that match financial institution and money laundering enforcement officials when multiple Currency Transaction Reports or Suspicious Activity Reports disclose patterns of activity that may be included in any instance in which multiple Currency Transaction Reports or Suspicious Activity Reports name the same individual within a prescribed period of time.

SEC. 5. ADDITIONAL COPSPONSORS.

S. 74

At the request of Mr. Daschle, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 74, a bill to amend the Fair Labor Standards Act of 1938 to provide...
more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 279

At the request of Mr. CRAPPO, his name was added as a cosponsor of S. 279, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 295

At the request of Mr. ROBB, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Montana (Mr. BURNS), the Senator from Nevada (Mr. REID), the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Alaska (Mr. STEVENS), the Senator from Nebraska (Mr. KERREY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. CONRAD), the Senator from Texas (Mrs. HUTCHISON), the Senator from Louisiana (Mr. BREAST), the Senator from Pennsylvania (Mr. SANTORIUM), the Senator from New York (Mr. SCHUMER), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. BONDI), the Senator from Nevada (Mr. BRYAN), the Senator from Maine (Ms. COLLINS), the Senator from Georgia (Mr. COVY), the Senator from Idaho (Mr. CRAIG), the Senator from South Dakota (Mr. DASCHLE), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. GORE), the Senator from Utah (Mr. BENT), the Senator from Michigan (Mr. BOND), the Senator from Nevada (Mr. BRYAN), the Senator from Maine (Ms. COLLINS), the Senator from Georgia (Mr. COVY), the Senator from Idaho (Mr. CRAIG), the Senator from South Dakota (Mr. DASCHLE), the Senator from Georgia (Mr. COVY), the Senator from Idaho (Mr. CRAIG), the Senator from South Dakota (Mr. DASCHLE), the Senator from Georgia (Mr. COVY), the Senator from Idaho (Mr. CRAIG), the Senator from South Dakota (Mr. DASCHLE), the Senator from Georgia (Mr. COVY), the Senator from Idaho (Mr. CRAIG), the Senator from South Dakota (Mr. DASCHLE)

S. 586

At the request of Mr. SHELBY, his name was added as a cosponsor of S. 586, a bill to amend the Internal Revenue Code of 1986 to allow tax-exclusive private activity bonds to be issued for highway infrastructure construction.

S. 664

At the request of Mr. L. CHAFFEE, his name was added as a cosponsor of S. 470, a bill to amend the Internal Revenue Code of 1986 to allow 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. 659

At the request of Mr. L. CHAFFEE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a co-sponsor of S. 761, a bill to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through operation of free market forces, and for other purposes.

S. 855

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. SNOWE) was added as a co-sponsor of S. 855, 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. 901

At the request of Mr. BINGAMAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a co-sponsor of S. 901, a bill to provide disadvantaged children with access to dental services.

S. 1120

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a co-sponsor of S. 1120, a bill to ensure that children enrolled in medical aid and other Federal means-tested programs at highest risk for lead poisoning are identified and treated, and for other purposes.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a co-sponsor 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. 1320

At the request of Mr. BAUGH, the names of the Senator from New York (Mr. MOYNIHAN), the Senator from Minnesota (Mr. WELLSTONE), the Senator from Louisiana (Mr. BREAU), the Senator from Mississippi (Mr. COCHRAN), the Senator from Delaware (Mr. ROTH), the Senator from Hawaii (Mr. AKAKA), the Senator from Idaho (Mr. CRAPPO), the Senator from Delaware (Mr. BIDEN), the Senator from Montana (Mr. BAUCUS), the Senator from Nevada (Mr. REID), the Senator from New Hampshire (Mr. GREGG), the Senator from Nevada (Mr. BRAN), the Senator from West Virginia (Mr. GREGG), the Senator from Maryland (Ms. MUKULSK) were added as cosponsors of S. 1320, a bill to authorize the President to award a gold medal on behalf of Congress to Father Theodore M. Hesburg, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community.

S. 1369

At the request of Mr. EFFORDS, the name of the Senator from Maine (Ms. SMITH) was added as a co-sponsor 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. 1378

At the request of Mr. VOINOVICH, the names of the Senator from Mississippi (Mr. LOTTO), the Senator from Missouri (Mr. BOND), and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 1378, a bill to amend chapter 35 of title 44, United States Code, for the purposes of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes.

S. 1440

At the request of Mr. HARKIN, the names of the Senator from South Dakota (Mr. DASCHLE), and the Senator from South Dakota (Mr. JOHN) were added as cosponsors of S. 1440, a bill to amend section 10102 of the Elementary and Secondary Education Act of 1965 regarding elementary school and secondary school counseling.

S. 1452

At the request of Mr. SHELBY, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 1531

At the request of Mr. HARKIN, the name of the Senator from Minnesota...
November 10, 1999

CONGRESSIONAL RECORD — SENATE

S14573

(Mr. WELLSTONE) was added as a cosponsor of S. 1511, a bill to provide for education infrastructure improvement, and for other purposes.

S. 1563

At the request of Mr. ABRAHAM, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1563, a bill to establish the Immigration Affairs Agency within the Department of Justice, and for other purposes.

S. 1590

At the request of Mr. CRAPO, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1590, a bill to amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes.

S. 1642

At the request of Mr. COCHRAN, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1642, a bill to amend part F of title X of the Elementary and Secondary Education Act of 1965 to improve and refocus civic education, and for other purposes.

S. 1666

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1666, a bill to provide risk education assistance to agricultural producers, and for other purposes.

S. 1693

At the request of Mr. GRAMS, the name of the Senator from Ohio (Mr. VOINOVICh) was added as a cosponsor of S. 1693, a bill to protect the Social Security surplus by requiring a sequester to eliminate any deficit.

S. 1701

At the request of Mr. SESSIONS, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1701, A bill to reform civil asset forfeiture, and for other purposes.

S. 1738

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1738, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

S. 1862

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1862, a bill entitled "Vermont Infrastructure Bank Program."

S. 1867

At the request of Mr. ROBB, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1867, a bill to amend the Internal Revenue Code of 1986 to provide a tax reduction for small businesses, and for other purposes.

S. 1893

At the request of Mr. BINGAMAN, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1893, a bill to amend title 5, United States Code, to eliminate an inequity on the applicability of early retirement eligibility requirements to military reserve technicians.

S. 1896

At the request of Mr. LEAHY, the name of the Senator from Vermont (Mr. EFFORDS) was added as a cosponsor of S. 1896, a bill to amend the Public Buildings Act of 1959 to give first priority to the location of Federal facilities in central business areas, and for other purposes.

SEnate Resolution 108

At the request of Mr. BREAX, the names of the Senator from Ohio (Mr. VOINOVICh), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. DODD), the Senator from California (Mrs. FEINSTEIN), the Senator from Washington (Mr. GORTON), the Senator from Ohio (Mr. DEWINE), the Senator from Idaho (Mr. CRAPO), the Senator from Illinois (Mr. DURBIN), the Senator from Missouri (Mr. ASHCROFT) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of Senate Resolution 108, a resolution designating the month of March each year as "National Colorectal Cancer Awareness Month."

SEnate Resolution 128

At the request of Mr. COCHRAN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of Senate Resolution 128, a resolution designating March 2000 as "Arts Education Month."

SEnate Resolution 216

At the request of Mr. CAMPBELL, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of Senate Resolution 216, a resolution designating the Month of November 1999 as "National American Indian Heritage Month."

SEnate Resolution 217

At the request of Mr. CHAFFEE, his name was added as a cosponsor of Senate Resolution 216, supra.

SEnate Resolution 220

At the request of Mr. HUTCHINSON, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Florida (Mr. MACK) were added as cosponsors of Senate Resolution 217, a resolution relating to the freedom of belief, expression, and association in the People's Republic of China.

SEnate Resolution 223

At the request of Mr. HELMS, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of Senate Resolution 223, a resolution condemning the violence in Chechnya.

SEnate Resolution 224

At the request of Mr. CLELAND, the names of the Senator from Virginia (Mr. WARNER), the Senator from Oklahoma (Mr. INHOFE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Mexico (Mr. DOMENICI) were added as co-sponsors of Senate Resolution 224, a resolution expressing the sense of the Senate to designate November 11, 1999, as a special day for recognizing the members of the Armed Forces and the civilian employees of the United States who participated in the recent conflict in Kosovo and the Balkans.

SEnate Resolution 227

At the request of Mr. BOND, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Mississippi (Mr. LOTT), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of Senate Resolution 227, a resolution expressing the sense of the Senate in appreciation of the National Committee for Employer Support of the Guard and Reserve.

At the request of Mr. BRYAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Resolution 227, supra.

AMEndMent No. 255

At the request of Mr. LEAHY his name was added as a cosponsor of Amendment No. 2515 proposed to S. 625, a bill to amend title 11, United States Code, and for other purposes.

AMEndMent No. 256

At the request of Mr. KOHL the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of Amendment No. 2516 proposed to S. 625, a bill to amend title 11, United States Code, and for other purposes.

AMEndMent No. 260

At the request of Mr. SESSIONS his name was added as a cosponsor of Amendment No. 2650 proposed to S. 625, a bill to amend title 11, United States Code, and for other purposes.

AMEndMent No. 277

At the request of Mr. HATCH the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Colorado (Mr. ALLARD) were added as co-sponsors of Amendment No. 2771 proposed to S. 625, a bill to amend title 11, United States Code, and for other purposes.
SENATE CONCURRENT RESOLUTION 72—EXPRESSING CONDEMnation OF THE USE OF CHILDREN AS SOLDIERS AND THE BELIEF THAT THE UNITED STATES SHOULD support AND, WHEREAS, EFFORTS TO ESTABLISH AND ENFORCE INTERNATIONAL STANDARDS DESIGNED TO END THIS Abuse of HUMAN RIGHTS

Mr. WELLSTONE submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 72

Whereas in 1999 approximately 300,000 individuals under the age of 18 are participating in armed conflict in more than 30 countries worldwide and hundreds of thousands more are at risk of being conscripted at any given moment;

Whereas many of these children are forcibly conscripted through kidnapping or coercion, while others join military units due to economic necessity, to avenge the loss of a family member, or for their own personal safety;

Whereas many military commanders frequently force child soldiers to commit gruesome acts of ritual killings or torture against their enemies, including against other children;

Whereas many military commanders separate children from their families in order to foster dependence on military units and leaders, leaving children vulnerable to manipulation, deep traumatization, and in need of psychological counseling and rehabilitation;

Whereas child soldiers are exposed to hazardous conditions and risk physical injuries, sexually transmitted diseases, malnutrition, dermatological conditions, respiratory and skin infections;

Whereas many young female soldiers face the additional psychological and physical horrors of rape and sexual abuse, being enslaved for sexual purposes by militia commanders, and forced to endure severe social stigmatization upon returning home;

Whereas children in northern Uganda continue to be kidnapped by the Lords Resistance Army (LRA) which is supported and funded by the government of Sudan which has committed and continues to commit gross human rights violations in Uganda;

Whereas children in Sri Lanka have been forcibly recruited by the opposition Tamil Tigers movement and forced to kill or be killed in the armed conflict in that country;

Whereas an estimated 7,000 child soldiers have been involved in the conflict in Sierra Leone, some as young as age 10, with many being forced to commit extrajudicial executions, extreme rape, and amputations for the rebel Revolutionary United Front;

Whereas the international community is developing a consensus on how to most effectively address the problem, and toward this end, the United Nations has established a working group to negotiate an optional international agreement on child soldiers which would raise the legal age of recruitment and participation in armed conflict to age 18;

Whereas on October 26, 1998, United Nations Secretary General Kofi Annan set minimum age requirements for United Nations peacekeeping personnel that are made available by member nations of the United Nations;

Whereas United Nations Under-Secretary General for Peacekeeping, Bernard Miyet, announced in the Fourth Committee of the General Assembly that contributing governments of member nations were asked not to send civilian police and military observers under the age of 18, and that five national contingents should preferably be at least 21 years of age but in no case should they be younger than 18 years of age;


Whereas in 1999 the Security Council, the Special Representative of the Secretary General for Children and Armed Conflict, Olara Otunnu, urged the adoption of a global time-bound approach to combat the use of children in armed conflict: first, to raise the age limit for recruitment and participation in armed conflict from the present age of 15 to the age of 18; second, to increase international pressure on armed groups which currently abuse children; and third, to address the political, social, and economic factors which create an environment where children are induced by appeal of ideology or by socio-economic collapse to become child soldiers; and

Whereas the United States delegation to the United Nations working group relating to child soldiers has opposed efforts to raise the minimum age of participation in armed conflict to the support of an overwhelming majority of countries; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) The Congress joins the international community in condemning the use of children as soldiers by governmental and nongovernmental armed forces worldwide; and

(2) It is the sense of the Congress that—

(A) The United States should not oppose current efforts for an optional international agreement to raise the international minimum age for military service to the age of 18;

(B) The Secretary of State should address positively and expeditiously this issue in the next session of the United Nations working group relating to child soldiers before this process is abandoned by the international community; and

(C) The President and the Congress should work together to enact a law that establishes a fund for rehabilitation and reintegration into society of child soldiers.

Mr. WELLSTONE. Mr. President, today I am submitting a concurrent resolution expressing condemnation of the use of children as soldiers and the belief that the United States should support and, where possible, lead efforts to establish and enforce international standards designed to end this abuse of human rights.

In 1999, an estimated 300,000 individuals under the age of 18, some as young as age 5, were children in dozens of armed conflicts around the world, some with armed insurgencies, and some in regular armies.

Over the past five years, children were combatants in at least 33 countries worldwide: in Africa, in the Americas, in Europe, the Middle East and Persian Gulf, and in Asia.

Throughout the world, children are exploited by adults for cruel purposes. They are used as soldiers by governmental and nongovernmental forces, or their adult counterparts. This can have dire consequences for children.

When a conflict has ended, child soldiers often do not receive any special treatment for their reintegration into civil society. Child soldiers have different needs than adult soldiers and require special services, such as education, training, and social and psychological rehabilitation.

Although child soldiers are subjected to unspeakable horrors, the international community has been slow in ending the use of children under age 18 in armed conflicts. Today, international law regarding child soldiers is governed primarily by the UN Convention on the Rights of the Child. The Convention states that children under 15 cannot be recruited, conscripted, or made to participate in armed conflict. Every country in the United Nations, except the United States and Somalia has ratified the Convention.

Currently, a number of governments are still reluctant to submit to either the Optional Protocol to the Convention on the Rights of the Child that would raise the minimum age for recruitment and participation in conflict to age 18. The
working group has met over the past five years, but so far has been unable to reach consensus as to the wording and terms of the protocol. This delay is in part due to the United States, which does not want to give up its practice of recruiting youths under 18 for military service.

Although in the United States conscription is limited to those 18 and over, the United States military has a long standing practice of recruiting youths under the age of 18 and allowing them to be designated to fill combat positions. According to the U.S. Defense Department, children under the age of 18 make up less than one-half of one percent of active U.S. troops, about 7,000 individuals. I urge the Defense Department to examine its policy of recruiting children under the age of 18. Further, I urge the Defense Department to reassign those recruits under 18 to non-combat positions and adopt a clear policy barring those under 18 from participating in armed conflict. These steps would bring the United States closer to the emerging international consensus regarding the minimum age for military service.

Further, to move forward, the United States government must drop its objection to an international agreement establishing 18 as the minimum age for recruitment or participation in armed conflict. Since the United States is not even a party to the parent treaty, our opposition is inappropriate. The United States should not object to other countries moving forward in protecting their children even if we choose not to follow suit.

Mr. President, I speak today for those children who have grown up surrounded by violence and can only see this as a permanent way of life; for the children who are the victims of unfathomable terror and violence; and, for the children who are forced to perpetuate tragedies upon one another.

I speak for the children who have no other voice to speak for them, and no voice to speak for themselves. I submit this resolution so that the United States Congress can speak for these children.

I ask the United States Senate, as we look to the new millennium, to begin the process whereby we eliminate the use of children as soldiers. I ask the Senate to give voice to these children and to support the resolutions that I have introduced through passage of this concurrent resolution.

The resolution simply provides that (1) Congress joins the international community in condemning the use of children as soldiers; and (2) it is the sense of the Congress that (A) the United States should not oppose current efforts to negotiate an optional international agreement to raise the international minimum age for military service to the age of 18; (B) the Secretary of State should address positively and expeditiously this issue in the next session of the United Nations working group relating to child soldiers before this process is abandoned by the international community; and (C) the President and the Congress should work together to enact a law that establishes a fund for the rehabilitation and reintegration into society of child soldiers.

CONCURRENT RESOLUTION
pledging the Sense of the Congress Regarding Freedom Day

Mr. LIEBERMAN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

Whereas on November 9, 1989, the Berlin Wall was torn down by those whom it had imprisoned; Whereas the fall of the Berlin Wall has become the preeminent symbol of the end of the Cold War; Whereas the Cold War, at its essence, was a struggle for human freedom; whereas the end of the Cold War was brought about by the dedication, sacrifice, and discipline of Americans and many other peoples around the world united in their opposition to Soviet Communism; Whereas freedom's victory on the Cold War against Soviet Communism is the crowning achievement of the free world's long 20th century struggle against totalitarianism; and Whereas it is highly appropriate to remind Americans, particularly those in their formative years, that America paid the price and bore the burden to ensure the survival of liberty on this planet: Now, therefore, be it
Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a Freedom Day should be celebrated each year in the United States; and
(2) the United States should join with other nations, specifically including those which liberated themselves to help end the Cold War, to establish a global holiday called Freedom Day.

Mr. LIEBERMAN. Mr. President, we have just marked the 10th anniversary of the fall of the Berlin Wall, one of the most important milestones of our era. In honor of this event, I am submitting a resolution urging that a "Freedom Day" be celebrated each year in the United States. It also calls on the United States to work with other nations to establish a global holiday called "Freedom Day." The House also passed an identical resolution.

Mr. President, we have just marked the 10th anniversary of the fall of the Berlin Wall, one of the most important milestones of our era. In honor of this event, I am submitting a resolution urging that a "Freedom Day" be celebrated each year in the United States. It also calls on the United States to work with other nations to establish a global holiday called "Freedom Day." The House also passed an identical resolution, introduced by my friend House Policy Chairman CHRISTOPHER COX, by a vote of 417-0, and it is my hope that we can pass it in the Senate before adjournment.

A decade later, it is sometimes easy to forget the profound significance of November 9, 1989, the day that Berlin Wall came down. It was the symbolic end of four decades of a Cold War that had dominated our foreign and defense policies and threatened international stability. The Cold War's end was a resounding success for the United States and the international community, that set off a worldwide movement toward greater democratization and the embrace of free markets.

In the United States, credit for this success can be generously distributed to generations of American leaders, both Democrats and Republicans, who never wavered in their courageous determination to contain the Soviet Union and resist totalitarianism. The end of the Cold War was truly a bi-partisan effort and a national achievement, and is a model of cooperation that we should seek to address the international concerns we face now and in the future.

The fall of the wall was a transcendent moment in the struggle against totalitarianism and for democracy, a smashing victory for the human spirit and the cause of human rights. It is only fitting that we choose the anniversary of this epochal triumph to honor and celebrate freedom's march of progress across the planet.

The effort to establish a "Freedom Day," in recognition of the end of the Cold War, was inspired by my good friend Ben Wattenberg, Senior Fellow at the American Enterprise Institute and a long time champion of freedom and democracy. His recently published book, entitled "moving Forward With Freedom Day" is particularly noteworthy.

Mr. President, I ask unanimous consent that the complete text of Mr. Wattenberg's column be inserted in the RECORD.

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

MOVING FORWARD WITH FREEDOM DAY

Ten years ago, on Nov. 9, 1989, the Berlin Wall was battered down by the people it had imprisoned. The event is regarded as the moment the Cold War ended. For Americans without sentiment memories of World War II, the end of the Cold War has been the most momentous historical event of their lifetimes, and so it will likely remain for generations to come. The Cold War has more than lived up to expectations: Democracy is on the march globally, defense budgets are proportionately down, market economies are beginning to flourish most everywhere, everyday people are benefiting each and every day.

The end of the Cold War actually was a process, not an event. By early 1989, Soviet President Mikhail Gorbachev had pulled his troops from Afghanistan, whipped. Poles elected a noncommunist government; the Soviets did nothing. Hungary, Czechoslovakia, East Germany and later Bulgaria installed non-communist governments. It was called "the velvet revolution," with only Romania the exception; Nicolae Ceausescu and his empress were executed.

For almost two years, the U.S.S.R. remained a one-party communist state, gradually eroding. Hard-liners attempted to resist the slow motion dismemberment. On Aug. 19, 1991, Boris Yeltsin stood on a tank to retake hard-line coup. The hammer-and-sickle fell, the communist flag was ripped up. Other Soviet republics declared independence, including the big guy on the block, Ukraine.

U.S. diplomats did not "gloat" about it. The sovereign state of Russia would be unstable enough without the United States rubbing it in. On Dec. 4, 1991, I proposed in a column that a new national holiday be established to
to the Committee on the Judiciary:
following resolution; which was referred
me at Watmail@aol.com. I’ll pass the
War generation may not be ‘‘the greatest’’
development libraries—Truman, Eisenhower, Ken-
board for a campaign. The other great presi-
duery was June 5, for Adam Smith’s birthday.
But the most votes went for Nov. 9, the day
Wall. So today I proclaim that date
There were ideas about how to celebrate and
memorize Freedom Day: Build a sib-
luping statue to the statue of Liberty; eat
potatoes, the universal food; build a tun-
el to Russia across the Bering Strait; thank
God for peace; welcome immigrants; medi-
tate; issue a U.N. stamp; build ice sculptures;
send money to feed Russians; and do some-
thing you can’t do in an unfree country: make a
public speech, see a dirty movie, cel-
brate a religion, travel across a border.
I propose that discussion on the matter of
how to celebrate be put on hold until we get
the holiday established.
How? Because all the major presidential
candidates participated in the Cold War, they
ought to endorse the holiday. Legislators
ought to push for it. Anyone who worked in
the Cold War generation may not be ‘‘the greatest’’
but they did their job—victory without a
major war.
Americans can only create an American
holiday. But we ought to invite all other
countries to join in, Russia first. The citi-
zens of Russia won the Cold War as surely as
we did. If I were a Chinese dissident I’d pro-
mote the idea; it might give their leaders a
clue.
If you like the idea, or have ideas, you may
e-mail me at Watmail@aol.com. I’ll pass the
correspondence along to the appropriate per-
sons, as soon as I figure out who they are.

S. 1456 entitled ‘‘A bill for the relief of
Rocco A. Trecosta of Fort Lauderdale, Flor-
ida’’ now pending in the Senate, together with
all the accompanying papers, is referred
to the chief judge of the United States Court
of Federal Claims.

SEC. 2. PROCEEDING AND REPORT.
The chief judge:
(1) proceed according to the provisions of
sections 1492 and 2509 of title 28, United States
Code; and
(2) report to the Senate, at the ear-
liest practicable date, providing—
(A) such findings of fact and conclusions
that are sufficient to inform the Congress of
the online environment; the extent of the
claim for compensation referred to in such
bill as a legal or equitable claim against the
United States or a gratuity; and
(B) the amount, if any, legally or equitably
due from the United States to Rocco A.
Trecosta of Fort Lauderdale, Florida.

SENATE RESOLUTION 232—MAKING
CHANGES TO SENATE APPOR-
TMENTS FOR THE 106TH CONGRESS

Mr. LOTT (for himself and Mr.
Daschle) submitted the following reso-
lution; which was considered and
agreed to:

S. Res. 232 Resolved, That notwithstanding the provi-
sions of S. Res. 400 of the 96th Congress, or
the provisions of rule XXV, the following
changes shall be effective on those Senate
sittings of S. Res. 400 of the 95th Congress, or
their successors are ap-
pointed.

SEC. 1. SHORT TITLE.
This Act may be cited as the ‘‘Privacy
Protection Study Commission Act of 1999’’.

SEC. 2. FINDINGS AND PURPOSES.
(a) FINDINGS.—Congress finds that—
(1) the right of privacy is a longstanding
personal right embedded in United States
history and jurisprudence;
(2) the openness of Government records,
procedures, and actions has become increas-
ingly important in recent years, and
should remain so in the democratic society;
(3) the use of electronic data collection,
storage, communications, transfer, and
usage has increased exponentially, thus
heightening the potential impact upon indi-
vidual privacy;
(4) national surveys indicate that the
growth and expansion of technology has re-
resulted in concern regarding electronic data
privacy for more than 80 percent of United States
citizens; and
(5) currently, there is no uniform Govern-
ment policy addressing either Government
or private sector uses of personal data;
(6) the right of individual privacy must be
weighed against legitimate uses of personal
information that benefit the public good; and
(7) the private sector has made notable ef-
forts to self-regulate privacy protection, es-
specially in the online environment, but there
remains room for improvement.

(b) PURPOSE.—The purpose of this Act is to
establish a study commission to—
(1) examine the implications of new and ex-
isting technologies on individual privacy;
(2) ensure appropriate privacy protection
of both Government and private sector uses
of personal information, recognizing that a
balance exists between individual rights and
the public good including the legitimate
needs of law enforcement;
(3) identify Government efforts to establish
privacy policy, including recommendations
for improved coordination among Govern-
ment agencies, and foreign governments, and
if necessary, legislative proposals;
(4) evaluate new technology (i.e. bio-
metrics) to enhance electronic data privacy;
and
(5) study the extent, need, and feasibility
of individual control over personal informa-
tion.

SEC. 3. ESTABLISHMENT OF COMMISSION.
There is established a commission to be
known as the Privacy Protection Study
Commission (hereafter in this Act referred to as the ‘‘Commission’’).

(a) COMPOSITION.—The Commission shall
be composed of 9 members of whom—
(A) 3 shall be appointed by the President of
the United States;
(B) 2 shall be appointed by the Majority
Leader of the Senate and 1 shall be appointed
by the Minority Leader of the Senate; and
(C) 2 shall be appointed by the Speaker
of the House of Representatives and 1 shall be
appointed by the Minority Leader of the
House of Representatives.

(b) QUALIFICATIONS.—Members of the Com-
mission shall be chosen based on their
knowledge and expertise in law, civil rights
and liberties, privacy matters, government,
business, telecommunications, media, or
information technology.

(c) CHAIRMAN AND VICE CHAIRMAN.—The
Commission shall elect a Chairman and Vice
Chairman from among its members. The
Chairman, or a member appointed by the
Chairman, shall be the official spokesperson
of the Commission in its relations with Con-
gress, Government agencies, other persons,
and the public.

(d) TERM OF APPOINTMENT; VACANCIES.—
(i) APPOINTMENT.—Members shall initially
be appointed not later than 90 days after
the date of enactment of this Act.
(ii) TERM.—Members shall be appointed for
the life of the Commission.

(e) APPOINTMENT; VACANCY.—Any vacancy in the
Commission shall not affect its powers and shall be
filled in the same manner as the original
appointment.

(f) VOTING.—Each member of the Commis-
sion shall have equal responsibility and au-
thority in all decisions and actions of the
Commission, and shall participate in the
voting of the Commission shall be determined by a
majority vote of the members present.
(6) QUORUM.—Five members of the Commission shall constitute a quorum, however a lesser number of members may hold hearings.

SEC. 4. DUTIES OF THE COMMISSION.

(a) INVESTIGATION.—The Commission is authorized to conduct a thorough investigation of all matters relating to privacy policy.

(b) MANDATORY COMMISSION FUNCTIONS.—The Commission shall—

(1) research and investigate the actual and potential impact of electronic data protection, including efforts to harmonize United States law with that of other nations; and

(2) develop model privacy protection, electronic data protection, and fair information practices, standards, and guidelines; and

(c) DISCRETIONARY COMMISSION FUNCTIONS.—The Commission may—

(1) evaluate the status of Federal and State laws for the purpose of establishing policy objectives for Federal privacy protection and electronic data protection, including efforts to harmonize United States law with that of foreign jurisdictions;

(2) develop model privacy protection, electronic data protection, and fair information practices, standards, and guidelines to the extent authorized by law, to furnish the requested or subpoenaed to appear at any hearing, or to furnish any information, suggestions, estimates, and statistics for the purpose of carrying out this Act.

(3) provide potential technology that will enhance privacy protection and electronic data protection;

(4) identify privacy protection policies of Federal agencies, and evaluate the possible need for coordination of such policies; and

(5)(A) determine the need for the establishment of a permanent Federal agency, department, or bureau to maintain uniform privacy protection and electronic data protection policy; and

(B) if the Commission determines such an agency is advisable, develop a business plan for the establishment and maintenance of such agency.

(d) DATA INQUIRIES.—The Commission may provide periodic written reports to the President and the Judiciary Committees of the Senate and the House of Representatives on the Commission’s activities and findings.

(2) FINAL REPORT.—

(A) IN GENERAL.—Not later than 18 months after the date on which the first meeting of the Commission occurs, the Commission shall submit a written final report to the President and Congress on the Commission’s findings and recommendations.

(B) CONTENTS.—The report shall contain a detailed statement of the Commission’s findings and conclusions, together with any recommendations for legislation or administrative actions as the Commission considers appropriate.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings and sit at such times and places, administer oaths, and require by subpoena the production of books, records, correspondence, memorandums, papers, and documents as the Commission considers necessary.

(b) SUBPOENA POWERS.—

(1) IN GENERAL.—Subpoenas issued under subsection (a) may only be issued pursuant to a majority vote of all the members of the Commission, including affirmative votes by the Chairman and the Vice-Chairman of the Commission.

(b) IN GENERAL.—In the event that a person designated by the Chairman or any designated member may be subpoenaed, the Chairman may issue a subpoena to that person.

(c) SERVICE OF SUBPOENAS.—Subpoenas issued by the Commission shall be served by any person or class of persons designated by the Chairman for that purpose.

(d) ENFORCEMENT.—

(A) IN GENERAL.—In the event of contempt or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, may issue an order requiring such person to appear at any designated place to testify to or produce documentary or other evidence.

(B) PENALTY.—Any failure to obey the order of the court may be punished by the court.

(3) WITNESS ALLOWANCE AND FEES.—The provisions of section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality any information, suggestions, estimates, and statistics for the purpose of carrying out this Act. Any entity from which such information is requested or directed, to the extent authorized by law, to furnish the requested information to the Commission, upon request, shall provide jointly by the Chairman and Vice Chairman.

(d) CONFIDENTIALITY.—

(1) IN GENERAL.—The Commission may accept from any Federal agency or other person, any identifiable personal data if such data is necessary to carry out its powers and functions.

(2) SAFEGUARDS.—In any case in which the Commission accepts such information, it shall provide all appropriate safeguards to ensure that the confidentiality of the information is maintained and that such information is not disclosed except pursuant to the specific purpose for which such information is required, the information is destroyed or returned to the agency or person from which it was obtained.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF COMMISSION MEMBERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5313 of title 5, United States Code, for each day during which such member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, the members of the Commission shall be reimbursed 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.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—The Chairman of the Commission shall fix the compensation of the executive director and other personnel with 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 5326 of such title.

(d) SPEcial expert and Consultant STrAnkS.—The Chairman of the Commission is authorized to procure the services of experts and consultants in accordance with section 1503 of title 5, United States Code.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which its final report is submitted to the President.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $5,000,000 to carry out the provisions of this Act.

(b) A vailable.—Any sums appropriated in this section shall remain available, without fiscal year limitation, until expended.

BANKRUPTCY REFORM ACT OF 1999

HUTCHISON AND OTHERS

AMENDMENT NO. 2778

Mrs. HUTCHISON (for herself, Mr. BROWNBACK, and Mr. GRAHAM) proposed the following:

(S 2516)

Amdt. No. 2778 proposed by Mr. KOHL to the bill (S. 625) to amend title 11, United States Code, for other purposes; as follows:

Strike the period at the end and insert the following:

The provisions of this section shall not apply to debtors or, in the case of the state laws by statute that such provisions shall not apply to debtors and shall not take effect in any State unless and until it is before the first of any State legislature following the date of enactment of this Act.

A UTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. LOT T. Mr. President, I ask unanimous consent that the Committee on the Judiciary be permitted to meet during the session of the Senate on Wednesday, November 10, 1999, beginning at 10 a.m., in Dirksen Room 226, to conduct 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 during the session of the Senate on Wednesday, November 10, 1999 after the first vote, approximately 12 p.m., in the President's Room to conduct a markup.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet on Wednesday, November 10, 1999, at 1 p.m., for a hearing entitled “Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities.”

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Governmental Affairs and the Senate Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Wednesday, November 10, 1999 at 10 a.m. for a hearing regarding Federal Contracting and Labor Policy: Could the Administration’s Change to Procurement Regulations Lead to “Blacklisting” Contractors?

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

SUBCOMMITTEE ON INTERNATIONAL RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on International Relations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 10, 1999 at 2 p.m. to hold a hearing.

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

ADDITIONAL STATEMENTS

GEORGE GABRIEL CELEBRATING HIS 90TH BIRTHDAY

Mr. MOYNIHAN. Mr. President, I rise today to honor my fellow New Yorker George Gabriel on the occasion of his 90th birthday. Gabriel has been a war veteran, tennis instructor, lawyer, and vice president of Broadcast Music, Inc. (B.M.I.). His family will always know him for his love of classical music, quick wit, and pertinent advice. During World War II, George was stationed in Australia and the Philippines. He distinguished himself as a member of the Army’s code-breaking operations, reading deciphered cables into English. This right explains his affinity for the always challenging New York Times crossword puzzles.

After the war, he graduated from Brooklyn Law School and went to work for B.M.I. His work in the field of music copyright prompted a quick rise up the corporate ladder. He was eventually promoted to the position of vice president, where he remained until the time of his retirement.

Yet, for all his professional achievements, it is his personal life that gives him the flavor of the South in his speech. This epochal moment marks a grand achievement for a man who is a mentor to grandchildren, nieces, and nephews. I offer my prayers to George for continued good health and cheer, and close with a particular thing:

May joy and peace surround you, Contentment latch your door, And happiness be with you now, And bless you evermore.

COMPREHENSIVE TEST BAN TREATY

Mr. COVERDELL. Mr. President, several weeks ago the Senate wisely rejected the Comprehensive Test Ban Treaty. Much was written about how the debate evolved here in the Senate. As one closely involved in this historic debate, I submit for the RECORD an excellent article in the November 8 issue of National Review by Richard Lowry.

The article is entitled “Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities.”

TREATY BAN

“If we had a hearing and had a vote on the CTBT, we would win overwhelmingly.”


Jesse Helms mounted his motorized cart and left the Administration Building and the Senate floor. Arizona senator Jon Kyl was right behind him. Georgia’s Paul Coverdell got up and immediately headed out the door. All were converging on the offices of majority leader Trent Lott late Tuesday afternoon, Oct. 12, as Senate staffers and others buzzed of an imminent deal to avoid a vote on the Comprehensive Test Ban Treaty. Minority leader Tom Daschle had just offered Lott a treaty-saving agreement. Now the small group of Republicans-after clearing Lott’s cramped conference room of all staff, to ensure privacy—would decide whether the Senate would vote down a major international treaty for the first time in 80 years.

Their decision would be the culmination of months of work to determine whether the congressional wing of the GOP would win its most significant victory since welfare reform in 1996. They knew they had a strong hand: (1) the Senate had already voted to accept the treaty. North Dakota Senator Byron Dorgan spoke at a luncheon for Republican Senators, and left the Republican cloakroom, just off the Chamber floor, Kyl could guarantee 34 votes in opposition to it; and (2) Kyl and Coverdell would continue to work the vote count. By the time of a Sept. 14 meeting in Lott’s office, Kyl could guarantee opposition—just enough. He could also deliver the energetic help of former secretary of defense (and secretary of energy) James Schlesinger.

Before long, the effort by treaty opponents was in full swing. Kyl’s staff prepared briefing books to distribute to other Senate staff. Two nuclear-weapons experts who had worked in the labs briefed senators both individually and in small groups. And Schlesinger, who had served in both Republican and Democratic administrations, spoke at a luncheon for Republican Senators, then returned for more briefings the following week.

He explained how the Senate aide. The effort began to show in the steadily rising vote count: Sept. 14–17, 34 oppose; Sept. 17–20, 33; Sept. 22–28, 32; followed by 11 “leaning against.”

At the same time, Democrats heedlessly stepped up their agitation for action on the treaty. North Dakota Senator Byron Dorgan...
Senator John Warner was running around fit— to no avail. It was too late. Republican Senate aide puts it, would have been “an inphasized just that. The only way out, as one Democrats weren’t serious, and some Republicans were unwilling to go along no matter what. As a result, Lott decided to move. He quietly reassured Biden that his resolution would be unnecessary.

On Oct. 1, Daschle lent his support to a new agreement. There would be a vote on the treaty within two weeks. Every Democrat in the Senate had endorsed the timing—and this was unlikely to change.

Why did the Democrats do it? In part, they were trapped by their own rhetoric. Gleeful GOP strategists—or at least those in favor of the Democrats demanding a treaty vote this year. How could they back out now? They were also probably unaware of the direness of the vote. “I have no plain answer,” says Kyl. “They didn’t have any idea they wouldn’t win.”

Democrats also might have figured that they could, if necessary, cut a last-minute deal with Lott to aver the vote. The final days of the treaty fight featured a panicked Democratic effort to reverse course and do just that, even as the vote count against continued to mount: Oct. 1-43 against; Oct. 7-45.

Lott was still open to avoiding a vote, but only if he could get an ironclad agreement from the Democrats that it would not come up again for the duration of the Clinton administration. It was this possibility—and the wiggle room the administration would surely find in any such deal—that had treaty opponents on edge. “We were nervous until the vote took place that something was going to sidetrack it,” says Arkansas Senator Tim Hutchinson. “I hoped Daschle could talk Lott off the ledge.”

Daschle sent Lott a letter proposing to shelve the treaty, barring a vote that something was going to happen. Lott promised to run a letter proposing to shelve the treaty, barring a vote that something was going to happen. Lott promised to run a letter proposing to shelve the treaty, barring a vote that something was going to happen. Daschle’s staff was already telling reporters that a deal was at hand, prompting yet another treaty opponent, Oklahoma’s Jim Inhofe, to sprint to Lott’s office with a wealth of government experience and policy knowledge, as well as a model work ethic and positive attitude. While her expertise lies in defense procurement, Julie welcomed projects in areas that IJulie handled frequent communication with government agencies and almost daily communications with South Dakotans. Julie also provided valuable assistance on crop insurance legislation this year as well. Both the House of Representatives and the Senate introduced numerous bills to reform the crop insurance program in this Congress, an issue of great importance to the farmers of South Dakota. Julie worked with farmers and environmentalists during this time. Julie also handled frequent communication with government agencies and almost daily communications with South Dakotans.

One of the most challenging tasks Julie undertook was the creation of a comprehensive resource guide regarding restructuring of the electricity industry. The end result of Julie’s work was a thorough index of restructuring terms, industry positions, key issues and legislative proposals. Anyone who is familiar with the complexity of de-regulation proposals can appreciate the amount of research and effort required to create such a resource, which will be invaluable to me as the Senate Energy Committee continues to discuss and evaluate restructuring legislation. Again, I wish to express my deep gratitude to Julie for her work. I wish her the very best in her future endeavors.

**CONGRESSIONAL RECORD — SENATE**

**TRIBUTE TO CIVIL WAR HERO FREDERICK ALBER**

Mr. ABRAHAM. Mr. President, I rise today to pay tribute to the late Frederick Alber of Lapeer County, MI. On November 13, 1999, the community of Oregon Township will dedicate a new headstone for Mr. Alber and also honor other veterans buried in the Oregon Township Cemetery.

Frederick Alber enlisted in the Seventeenth Michigan Infantry on July 2, 1862 during the Civil War. He served in the Quantrill raid, and during the Civil War. On July 30, 1866, Private Alber rescued Lieutenant Charles Todd of the Thirteenth Michigan Infantry who was in the hands of a party of rebels. Prior to shot down one enemy rebel and knocked over another with the butt of his musket. He then took the rebels as prisoners and conducted them both to the rear of the formation.

The Civil War is one of the most important events in our nation’s history. Thanks to the brave actions of soldiers like Frederick Alber, we are a united, free country. It is only fitting that we remember the great sacrifices made by those who have gone before us. The marker dedication at Frederick Alber’s grave site is a meaningful way to remember and honor the past heroes of our country and is an appropriate manner in which to salute our cherished liberties.

I join the entire community of Oregon Township and Lapeer County as they pay their respects to a real American hero, Frederick Alber.

**CONGRESSIONAL RECORD — SENATE**

**TRIBUTE TO RICHARD P. AUGULIS**

Mr. HOLLINGS. I rise today to pay tribute to Richard P. Augulis on the occasion of his retirement as director of the National Weather Service Central Region.

In Mr. Augulis’ 35 years with the National Weather Service, including 13 years as director of the 14-state Central Region, he has held public safety paramount, whether as a weathercaster as a disaster manager. He has now moved to Las Vegas, Nevada where he is able to enjoy this new venture with members of his family.
Mr. Augulis joined the National Weather Service in August 1961 as a Weather Bureau Student Trainee at WBSA Midway Airport while attending St. Louis University. He earned his Bachelor of Science in Meteorology in 1963 and a Master's Degree in 1967. He distinguished himself in a variety of forecasting and management positions—in Salt Lake City; Anchorage and Fairbanks, Alaska; Garden City, New York; and, finally, Kansas City.

Beginning in 1974, as Meteorologist in Charge of New Fairbanks's Weather Forecast Office, Mr. Augulis presided over a staff that operated service programs during the exciting and challenging times of the Trans-Alaska Pipeline construction. Mr. Augulis' leadership was also invaluable to employees during the mid-1970s when the National Weather Service implemented the Automation of Field Operations (AFOS) communications network, making a breakthrough transition from teletype to computerized computers.

Mr. Augulis' last decade with the National Weather Service included the largest modernization and reorganization ever undertaken by the agency. He helped guide his region through the introduction and implementation of state-of-the-art Doppler radar, computer-enhanced weather modeling and forecasting, and restructuring from more than 300 offices of varying sizes and capabilities to an efficient network of 121 forecast offices. He also presided over a staff that operated service programs at Forecast Offices across the United States.

Mr. Augulis has served proudly as an employee and a manager of the National Weather Service. He is a distinguished executive branch employee whose accomplishments reflect credit on himself, the National Weather Service and our nation.

On this occasion, I am honored to join his family, friends and colleagues as we recognize Richard P. Augulis on the occasion of his retirement from the National Weather Service.

DAVID GRISWOLD—LOYAL STAFFER

Ms. COLLINS. Mr. President, in the days since the untimely death of our beloved friend and colleague, Senator John Chafee, we have heard numerous testimonies to the impact Senator Chafee had on the lives of those who were fortunate enough to associate with him. From those with whom he served, both in Rhode Island and here on the floor of this august body, we have heard of his skills as a statesman and his benevolent manner as a friend. I am sure all of us are also aware of the love and pride he felt for those who were most important in his life—his family.

We would be remiss, however, if we did not also acknowledge another set of lives—Chafee’s, and those of his staff. His significance in their lives is perhaps best reflected in the story of David Griswold, Senator Chafee’s chief-of-staff.

As a friend of Senator Chafee’s, I wanted to thank Dave for the invaluable assistance that he provided the Senator over the past 23 years. A recent article in the Providence Journal reflects on the years that Dave worked with Senator Chafee in the State House, in Providence, Rhode Island and the people of this great nation. This article, which is a thoughtful reflection on Dave’s 23 years of dedicated service, captures beautifully the loyalty, modesty and sincerity with which he did his job. I ask that this article be printed in the Record.

The article follows:


AIDE BECAME A REFLECTION OF JOHN CHAFEE

By Maria Miroj Johnson

U.S. Sen. John H. Chafee in a bowling alley

That was a bad night, says David J. Griswold, reflecting yesterday on his life alongside the man he’d served for 23 years.

Griswold started out as Senator Chafee’s driver and driver, then rose through the ranks to become his chief of staff, a position he has held for 30 years.

Now he sits in the senator’s sunny office on Dorrance Street, having just come from a service, which he wrote himself, at the State House in downtown Providence.

“Of course, it’s bittersweet,” says Griswold. “Our chief of staff is no longer with us.”

But he also laughed now and then to recall certain stories. Such as the bowling alley story.

It was an October day in 1982, says Griswold, the closing days of a tense reelection campaign against Democratic Atty. Gen. J. Joseph Dorrance. Horrified, and trying to signal their displeasure with the president, “a bunch of 23 year olds showed up at my office,” he says, “with a note that said ‘We’re voting for Jimmy Carter.’”

It was Sunday before the election. We were sitting on the floor with the crafty President trying to pump up the crowd.

“I saved that note,” says Griswold. “Here it was Sunday before the election. We were in the state of terror. I would have forgiven him for being much worse to me than he had been. I would have forgiven him for hitting me.”

“I feel in love with him forever at that point. That made me know I would stay with this organization for as long as the door would open.”

David J. Griswold, 45, grew up in Warwick, the son of David F. and Nancy Griswold, a salesman and a secretary, both of them Republicans who “revered Senator Chafee, as did so many members of their generation.”

Over the years, he says, parents of younger staffers have expressed the same feeling his own parents did that working for Chafee “lifted up their families” and made them proud.

Griswold was only 14 when, in 1968, he first encountered then-Governor Chafee, who was throwing a rally at Providence City Hall for Nelson Rockefeller, who was seeking the Republican nomination for president.

“I heard about it. We’re downtown,” says Griswold. “In those days, we didn’t have C-Span and all these constant reports of everything, minute by minute. When a presidential candidate came to Providence, Rhode Island, it was a big deal.”

The teenager handed out fliers directing people to City Hall, and then he went to the rally itself. The speeches were great, he said, and afterward, Chafee shook Griswold’s hand. “It was thrilling.”

Griswold headed to the Outlet building to catch a bus, a limo coming rolling by. “And Rockefeller looks out of the car and gives me a thumbs-up. And I knew in that split second it was me that he was gesturing to. And it was magical. And then in a flash, the care was gone and the day was over and real life returned…”

But “that day, I began to love politics because I had made a connection with this figure and had felt that he was reaching out to me.”

Griswold kept volunteering for Republicans, kept going down to defeat after defeat. (Republicans in Rhode Island, says Griswold, are “a pathetically lonely, small community.”) And it wasn’t until 1975, when he was a 21-year-old Providence College student, that he encountered Chafee again.

Chafee had lost his first Senate race to Claiborne Pell in 1972, but was gearing up for a run in ’76.

“Oh, he didn’t know me from Adam,” says Griswold of their meeting at Chafee’s headquarters in the Turk’s Head Building. “I was one of a hundred people, but he made me feel as if he and I connected.”

The next day, Griswold returned from

One of his early jobs was to drive the senator to his appointments. Though Chafee was a friendly enough passenger, Griswold made it a practice to speak only when spoken to. For one thing, he was nervous about getting lost which, at time, he had.

Inevitably, he says it was Chafee who got them back on track. “He knew all the roads of Rhode Island. He knew every village in the state.”

“Of course, he was a realist. He was realizing that some of the awful things you said were about him, he’d say,”20 “Well, you know David, if that’s the worst thing you ever do, you don’t have much to worry about.”

“IT ALWAYS FELT SO GOOD TO HEAR THAT”

After his reelection in 1982, Chafee was aware that Griswold was a conscientious
worrywart and was a bit afraid of inviting him to be one of his legislative assistants in Washington.

"He valued thoroughness," says Griswold. "He would show the willingness to stay until the job was done at night. He valued commitment and honesty. He valued when you didn't know the answer to something, you said it. I knew, rather than pre-
vent a guess about what the answer might be, because that would just be a waste of time.

Griswold went on to become Chafee's chief legislative assistant, then his legislative di-
rector, then his chief of staff.

One of those assistants, Christine C. Fer-
guson, now head of the state Department of Human Services, worked closely with Gris-
old from 1981 to 1995 "some of the best working years of my life."

Unlike some chiefs of staff, who are "really political animals, operators, very slick," she says, "David is very much a reflection of Senator Chafee."

As Griswold recalls those days, the work of advising Chafee could be "painful."

"He had five names. David Griswold With

And he struggled. I remember nights that

20 years from 1981 to 1995 "some of the best

Griswold sometimes warns young appli-
cants that it's easier to work for a conservative or a liberal than for a moderate like Chafee, "because you at least start out kind of knowing where you're head-
ed."

On the other hand, "it made us do our jobs better. You really had to think to step back from each question and try to look at it from everybody's side."

Over the years, Griswold became "very slightly less afraid" of Chafee, but still never called him by his first name, always "Senator Chafee."

Frankly, he says, he resented staffers who did otherwise, because it presumed an equality that could never exist. (Chafee, for who

did otherwise, because it presumed an equality that could never exist. (Chafee, for

world has eased up a bit on work. "Iron-

Griswold to "smell the roses" and indeed, Gris-

wold has eased up a bit on work. "Iron-

Dr. John O. Lusins of Oneonta, NY

DR. JOHN O. LUSINS OF ONEONTA, NY

Mr. MOYNIHAN. Mr. President, a mile-

stone will occur on Wednesday, December 15th, while the Senate is in recess, which I do not want to go

Dr. John O. Lusins of Oneonta, New York will celebrate his sixtieth birthday. In his five decades, this New Yorker has grown from a

childhood war refugee into a beloved husband, devoted physician, respected

neurologist, and family, I wish Dr. Lusins a splen-

did sixtieth birthday and continued success in all his endeavors.

With the gathering of all his friends and family, I wish Dr. Lusins a splen-
did sixtieth birthday and continued success in all his endeavors.

NATIONAL TRADE EDUCATION

DAY

Mr. McCaIN. Mr. President, today has been designated National Trade Education Day. We should use this op-
portunity to demonstrate how the United States' belief in free trade and open markets have fostered American

continue perseverance, Lusins, under the aegis of a SURDNA scholarship, went on to graduate from Columbia University in 1963 and the Albany School of Medicine in 1967. During these years, J ohn not only ex-
celled academically but proved himself a patriot. Throughout his collegiate career, J ohn powered Columbia's varsity crew down the Harlem River and was named cap-
tain for his senior year in 1962. Fol-

lowing his junior year, however, Lusins decided to move to Ger-

many as the Soviets erected the Berlin Wall. After fulfilling his military obli-
gations, he returned to New York and subsequently finished college.

Before leaving for Berlin, J ohn met a dazzling young lady by the name of Anna Marie Dahlgard Bistany. Upon his return, the two promptly fell in love and were married on the 17th of August, 1963. Their first children were two daughters: Gillian, born in 1964, and Sarah in 1966. Three years followed: Carl in 1968, J ohn in 1973 and, finally, Matthew in 1976.

The family moved over the years, from Yonkers to Bronxville, finally making Oneonta their home in 1982. Filling a needed void, J ohn established his neurology practice at Oneonta's A.O. Fox Hospital in the same year. Since then, Lusins and his practice, now the multi-partner Catskill Neurodiagnostics and MRI, has become one of Central New York's finest and most respected medical centers.

Revered not only for his medical ca-
pabilities, Dr. Lusins has also estab-
lished himself as a prominent Amer-

can asset to the world of fine wine. Equipped with erudition and a dis-
cerning palate, this afficionado is not only a member of the prestigious New York Commandeur de Bordeaux but has proficien-
cently ascended the ranks of the Confrérie des Chevaliers du Tastevin to become their distinguished Director Général. Dedicated to these roles, Dr. Lusins educates family, colleagues, and all constituents about the intricacies and appreciation of wine. This significant task should not be taken lightly, as our Founding Framers and President Thomas Jefferson once noted:

By making this wine vine known to the public, I have rendered my country as great a service as if I had enabled it to pay back the national debt... Its extended use will carry health and comfort to a much enlarged circle.

With the gathering of all his friends and family, I wish Dr. Lusins a splen-
did sixtieth birthday and continued success in all his endeavors.

NATIONAL TRADE EDUCATION

DAY

Mr. McCaIN. Mr. President, today has been designated National Trade Education Day. We should use this op-
portunity to demonstrate how the United States' belief in free trade and open markets have fostered American
prosperity. This issue is especially timely, because the United States will be hosting a Ministerial meeting of the World Trade Organization (WTO) in Seattle later on this month. Public support of these WTO negotiations is essential to continued economic growth in the 21st Century.

The United States’ economy is currently in a period of historic economic growth, low inflation, and low unemployment. America’s open market plays a vital role in this achievement. Growth in the volume of American exports in goods and services accounted for more than 40% of overall U.S. economic growth in 1997. Today, exports represent 12% of the U.S. Gross Domestic Product. Export sales are now responsible for over 41% of the production of American semiconductors, 42% of aircraft, 43% of computers, and 68% of power turbines. Recent stories about the trade deficit also show promise. The resurgence of the economies of our Asian neighbors, and the creation of new trading partners, created an increase in American exports of $2.9 billion totaling $82 billion in August. The trade deficit dropped $800 million last month to $24.1 billion.

The recent economic news gives credence to the saying that “A rising tide lifts all boats.” American exports help everyone from corporate CEOs to the average American worker. In 1997, over 11,500,000 jobs depended on American exports. In addition, export-supported jobs pay 13% more than the average domestic wage. High technology industry jobs that are directly supported by exports have averaged hourly earnings 34% higher than the national average. The continued bipartisan free trade policy has benefited the American people.

It is important that the United States remain a leader in promoting policies of open markets worldwide. While our trading partner countries have started to remove remaining foreign barriers to American goods, our traders also must work together to remove other major pieces of trade legislation to ensure American prosperity in the 21st Century. It is imperative that the President make a serious effort to accelerate the WTO negotiations in order to pass “fast track” legislation. As the next round of the WTO negotiations develop, it is important that American negotiators have the leverage to secure our trade policy objectives. In addition, fast track authority lets our trading partners know that any agreement they negotiate with the United States will not be subject to exemptions and gross rewrites by the special interests in Washington. When the negotiations concerning the WTO, the Free Trade Area of the Americas, and other ongoing trade talks come to fruition, the President will need to have “fast track” authority to ensure that the agreements are implemented. My hope is that we can pass “fast track” legislation in order to establish the framework for another century of American economic growth.

In conclusion, I hope that we can use National Trade Education Day to gain public support for the continued pursuit of policies based on the principles of free trade. Bipartisan American trade policies, based on the belief that open markets free of regulations and tariffs, have played a major role in causing the current American prosperity. The United States should continue to pursue free trade policies that will remove barriers to American exports. I urge my colleagues to establish the foundation for future prosperity by passing “fast-track” legislation during this Congress.

TRIBUTE TO DAVID A. JUNGMANN

Mr. J. JOHNSON. Mr. President, I rise today to recognize and pay tribute to David A. Jungmann, a U.S. Air Force retiree with over 22 years of active military service and a great citizen from South Dakota who recently completed a very successful two-year term as Chairman of The Retired Enlisted Association TREA Senior Citizens League TSCL Board of Trustees. During his chairmanship, TSCL expanded its efforts to defend and protect the social security benefits of older Americans. Through his leadership, TSCL was successful in expanding its legislative lobbying goals and objectives and, as a result, increased the League’s membership from 600,000 to over 1.5 million members and supporters in just two years.

Dave was born on November 11, 1938 in Wolsey, SD. He graduated from Wolsey High School in May 1956, and in the following month, enlisted in the United States Air Force (USAF) and headed for Parks Air Force Base, California, for Basic Training. During his military career, Dave was stationed in Colorado, Texas, Florida, California, and El Salvador. After his military career also took him to many overseas locations including Japan, Guam, and Thailand. During a nine-month period of Temporary Duty to Andersen Air Force Base on the island of Guam, Dave served in support of the ARC Light Mission over The Republic of Vietnam and in 1968, flew 10 combat missions over Vietnam as a Bomb/Navigation Systems Technician. His service gave him the opportunity to earn the Bronze Star Medal, Air Force Commendation Medal with one oak leaf cluster, and numerous other awards and decorations.

With his military career behind him, Dave worked for the Douglas School System for over 14 years and subsequently retired from service to the State of South Dakota. During this period, he also served a two-year term as Chairman of the Board of Directors for the Retired Enlisted Organization, South Dakota, and currently serves as Trustee for the Zion Lutheran Church in Rapid City, South Dakota.

What is truly remarkable about Dave Jungmann is that in addition to all the accomplishments I just mentioned, he still made time to contribute to the success of TREA and the TREA Senior Citizens League. For instance, he served on the TREA Chapter 29 Board of Directors for 9 years and the TSCL Board of Trustees for 4 years, during which time he completed a two-year term as Chairman. Even today, Dave still participates in numerous parades and ceremonies to honor the veterans of the United States of America.

Today I rise in recognition of a great American, a solid citizen of South Dakota and a man who is a symbol of service to God, Country, State, veterans and older Americans. Congratulations on your accomplishments, Dave, and I wish you a Happy Birthday this coming Veterans’ Day, a fitting time to celebrate the life of a distinguished American veteran.
HONORING THE 10-YEAR ANNIVERSARY OF THE MOTORCYCLE RIDERS FOUNDATION

Mr. CAMPBELL. Mr. President, today I would like to take this opportunity to recognize a not-for-profit organization which has been on the national forefront of motorcyclists' rights. The Motorcycle Riders Foundation here in Washington, D.C. is a nation-wide grassroots activist group that is completing its tenth year representing motorcycling rights. As the year draws to an end and we look forward to a new century, we should be proud of an organization such as MRF which embodies our forefathers' commitment to the Constitution and the values of freedom and the self-determination of a citizen government.

In the mid-1980's the leadership of the various state motorcyclist associations, which had been around since the early 1970's, began to be concerned about the possibility of and need for creating a national association with federal legislation that had an impact on motorcyclists. In 1985, these leaders began hosting a national conference, the Meeting Of The Minds, to educate motorcyclists on how to be more effective in their legislative efforts.

In September of this year the MRF hosted the Fifteenth Annual Meeting Of The Minds in Denver, Colorado. In 1986, the idea of establishing a national association and opening an office in Washington, D.C. was conceived. In 1997, the Motorcycle Rights Fund (MRF) was incorporated as a 501 (4) not-for-profit association and fund raising began. In 1988, the name of the association was changed to the Motorcycle Riders Foundation. The MRF was recently recognized by the American Society of Association Executives with its Award of Excellence, for the overall federal legislative program. The awards committee recognized the commitment owed with federal legislation ongoing efforts for the past ten years.

In 1996 MRF's federal legislative program was also the recipient of ASAE's Excellence in Government Relations Award for a Single Issue. In its ten-year presence in the Nation's Capital, MRF has had a number of legislative accomplishments in diverse areas ranging from highway safety, personal liberty, law enforcement and discrimination issues; technology development policies; highway access, and state to federal relationships.

As we recognize MRF's 10-Year Anniversary, I look forward to hearing about MRF's future successes in the months and years to come.

SAGINAW COUNTY CONVENTION AND VISITOR'S BUREAU PINNACLE AWARD

Mr. ABRAHAM. Mr. President, I rise today to mark the third year that the Saginaw County Convention & Visitor's Bureau has recognized an organization, person or event with its Pinnacle Award. Nominees for the Pinnacle Award are chosen by the staff of the Saginaw County CVB, county-wide chambers of commerce, or from the county hospitality industry and are given based on the following criteria:

Someone who has brought a convention or conference(s) to Saginaw County that has significant fiscal impact on the county.
Someone or something that has garnered strong and positive press for the county and its various communities.
An activity or event that significantly improved or contributed to the quality of life in the county, or has had a significant economic impact.
A person who has initiated a program or event that has a positive impact on more than just their own business or interests.
A person who has assisted the Saginaw County Convention and Visitors Bureau "above and beyond" the call of duty for the greater good of the County.
A person who or an organization that has preserved or revitalized historical aspects of the County.
A person who or organization that has created or supported an event that showcases favorable aspects of the County, or which brings new tourism to the area.

The winners of the 1999 Pinnacle Award are:

Tony D'Anna, who has taken the lead on creating the Frankenmuth Oldies Fest and annual classic car show (Autofest).
Bishop Ed Leidel of the Episcopal Diocese of Eastern Michigan for bringing many conventions and meetings to Saginaw County.
Frankenmuth Oktoberfest which has grown over the past 10 years to become one of Michigan's great ethnic festivals.
P.R.I.D.E. (Positive Results In a Downtown Environment). Since 1975, P.R.I.D.E. has operated as a volunteer association with goals that include the organization of events that encourage people to come to the city as well as the improvement of the downtown area.
Sarah Schultz, owner of Sarah's Attic in Chesaning, whose newly formed educational pilot program teaches children the importance of love, respect, and dignity through different ethnic dolls.
Rev. P. David Saunders of the Bethal AME Church, for his outstanding success in bringing many meetings and conventions to the county.

BOISE MODEL PROGRAM NAMED 1999 PRESIDENT'S SERVICE AWARD HONOREE

Mr. CRAIG. Mr. President, every year the President's Service Award honoring 60 to 70 people is directed at solving critical social problems facing today's communities. This year, Hewlett Packard's Hispanic Student Outreach Program, based in Boise, ID, has been named one of 21 honorees. The Boise program paralleled the highest honor given annually by the President of the United States for volunteerism. The award is sponsored by the Points of Light Foundation and the Corporation for National Service.

As a 1999 honoree, program representatives traveled to Washington, DC, to participate in awards festivities October 13-15. This trip included a Capitol Hill Reception, an awards dinner and the participation in 1999 President's Service Awards Ceremony.

In 1995, Hewlett Packard employees in Boise, ID, started the Hispanic Student Outreach Program (HSOP) because they were concerned about the alarming 60 to 70 percent high school dropout rate among Hispanic youths. Based on the adopt-a-school concept, the program matches Hewlett Packard employees with teachers and students at a local middle school. The volunteerism is as role models, motivating and encouraging the students to stay in school. The HSOP is the only program of its kind in Idaho. Through this program more than 250 Hewlett Packard volunteers have touched the lives of nearly 1,600 Hispanic students.

The program includes many activities, one of which is Career Day. These educational field trips for 7th and 8th grade students include the students to Hewlett Packard offices for hands-on science experiments, computer shadowing and computer lab sessions, local science center trips, and university campus talks and tours. The college campus tours have proven especially significant by allowing the Hispanic middle school students to interact with Hispanic college students. Another effective program is the after school math tutoring program which pays local college students to tutor younger students. Professionals are also brought into the schools monthly to talk about career opportunities and the importance of math, science and writing skills beyond middle school.
Elena Tsuxton, the founder and Chairperson for the HSOP, commented that the “program is absolutely thrilled to be receiving the President’s Service Award.” She saw it as a “validation of our efforts that we are definitely meeting a critical need in our community. If we can help one more Hispanic student to finish school and go out to college, we will have met the HSOP program vision.”

The President’s Service Awards were created as the President’s Volunteer Action Award in 1992 to honor outstanding individuals and organizations engaged in volunteer service directed at solving critical social problems while calling public attention to the contributions made by the nation’s 93 million volunteers. In 1999, more than 3,500 nominations were submitted and reviewed in four activity areas: human needs, environmental needs, educational improvement, and public safety. A select panel of distinguished Americans reviewed the nominations based on achievement, meeting community needs, innovation, and mobilizing others to serve.

Mr. President, I congratulate this Idaho volunteer program for receiving this well deserved honor and thank them for their service to Idaho and its youth.

UNIVERSAL HEALTHCARE

Mr. GRAMS. Mr. President, I rise to express my support and appreciation regarding actions taken at United Healthcare that clearly demonstrate to me that proposed congressional action in the area referred to as “patient’s rights” can be best handled by the marketplace.

Yesterday, United Healthcare announced they will be changing the way they manage care in their health plans by giving physicians the final say in determining what course of treatment their patients will receive. In citing the reasons for the change of policy, United noted the savings resulting from their $100 million review process do not justify continuing it. United Healthcare is the second-largest health insurer in the nation and I believe their actions signal an industrial-scale challenge to the role of the government imposed remedy. This savings money for the plan which in turn saves money for consumers through lower premiums. I believe it is a significant step in the right direction, proving once again, that market forces and demands are productive and responsive. Government solutions usually do not work and end up with poorer services at higher costs.

I should like to be clear about my support for the Patient’s Bill of Rights Plus legislation I cosponsored and for re-focusing the remaining staff on Care Coordination efforts.

This saves money for the plan which in turn saves money for consumers through lower premiums. I believe it is a significant step in the right direction, proving once again, that market forces and demands are productive and responsive. Government solutions usually do not work and end up with poorer services at higher costs. I should like to be clear about my support for the Patient’s Bill of Rights Plus legislation I cosponsored and for re-focusing the remaining staff on Care Coordination efforts.

Mr. President, it is hard to overstate the importance of this announcement from United Healthcare and I felt it was imperative someone in Congress acknowledged private market forces for positive change far outweigh a government imposed remedy.

TRIBUTE TO SENATOR JOHN CHAFFEE’S STAFF

Mr. INHOFE. Mr. President, with all of the tributes to Senator John Chafee over the last few weeks I think it is important that we do not forget his talented and dedicated staff. In particular I would like to thank his staff on the Environment and Public Works Committee. He assembled a very professional team, well respected not only on both sides of the aisle but also within the larger environmental professional community.

I call special attention to Senator Chafee’s staff director, Jimmie Powell. Jimmie has served Congress over the last 20 years in various positions, and has worked on every major environmental statute over the last 20 years. Earlier this year, the National Journal called him a “low key aide whose political insights and institutional memory are sought out by industry lobbyists.”

This is an understatement. There is no Senate staffer, or House staffer, with more environmental experience and political know-how than Jimmie Powell.

I believe that Jimmie served his boss, Chairman Chafee well. I did not always agree with the positions that Senator Chafee took, but Jimmie always did an excellent job in representing his boss’s interests. I am not sure what position Jimmie Powell will take next, but I am confident that he will approach any new challenge with the same integrity and honor he exhibited as a Senate staffer.

PUBLIC SERVICE OF JIMMIE POWELL

Mr. WARNER. Mr. President, today I pay tribute to a member of our Senate family who has dedicated himself for many years to serving the Senate and the Committee on Environment and Public Works—Jimmie Powell.

I know that our distinguished former chairman, Senator Chafee, would not have let pass the opportunity for the Senate to recognize Jimmie Powell’s years of service to the Committee and his contributions to the protection of our environment.

Now, as he prepares to open a new chapter in his professional career and leave the Senate after some twenty years of service, I want to extend my appreciation and thanks to Jimmie on behalf of myself and the other Republican members of the Committee—Chairman Smith, and Senators Inhofe, Thomas, Bond, Voinovich, Crapo, Bennett, and Hutchison. The hallmark of Jimmie’s career has been his interest in hard work, dedication to protecting public health and our environment.

As the staff director for the chairman and the Republican members of the committee, I know that Senator Chafee respected Jimmie and was grateful for his counsel and the service he provided. To staff, and to some members, Jimmie was an adversary, as well as a motivator and educator.

He began his Senate career with former Senator David Durenberger in 1978, serving as his staff director of the Government Affairs Subcommittee on Intergovernmental Relations and later as legislative director. In 1985, Jimmie began his long service as a professional staff member and staff director for the Committee on Environment and Public Works. While his service primarily focused on legislative priorities for Senator Durenberger, Chairman Stafford and Chairman Chafee, he worked tirelessly for all Republican members of the Committee.

When one examines the environmental laws enacted in the past 20 years, those of us on the committee know of Jimmie’s leadership and accomplishments. This lengthy list includes the Leaking Underground Storage Tank program as part of the Hazardous and Solid Waste Amendments of 1984, Superfund, the 1987 Clean Water Act with groundwater protections and nonpoint source programs the 1986 and the 1990 Safe Drinking Water Act; the 1990 Clean Air Act amendments, particularly provisions on air toxics and alternative fuels, the 1991 Intermodal
Surface Transportation Efficiency Act and the 1998 Transportation Equity Act for the 21st century.

In every legislative challenge that came before the committee, Jimmie effectively worked to forge consensus, to find common ground, to develop solutions that represented the views of the members of the committee. While we may not have agreed on every issue, he is a person of great integrity. He effectively executed the views of the senators he served. A senator could ask for no more, but Jimmie never sought it. All of us owe Jimmie Powell a debt of gratitude for the many years he has served the Senate and this country. We wish him every success and thank him for a job well done.

FAA AUTHORIZATION EXTENSION ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. 1916 introduced earlier by Senator McCa11.

The PRESIDING OFFICER. The clerk will report the bill by title.

The clerk read as follows:

A bill (S. 1916) to extend certain expiring Federal Aviation Administration authorizations for a 6-month period, and for other purposes.

Mr. LEAHY. Reserving the right to object, I do not intend to. Is this the FAA extension?

Mr. GRASSLEY. It is a 6-month extension.

Mr. LEAHY. I have no objection.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be read for a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the Record.

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

The bill (S. 1916) was read the third time and passed, as follows:


The nominations considered and confirmed are as follows:

IN THE ARMY

Army nominations beginning Alan G. Lackey, and ending Rita A. Price, which nominations were received by the Senate and appeared in the Congressional Record of November 3, 1999.

Navy nominations beginning Lynne M. Hicks, and ending William D. Watson, which nominations were received by the Senate and appeared in the Congressional Record of November 3, 1999.

Navy nomination of John R. Daly, J.r., which was received by the Senate and appeared in the Congressional Record of November 3, 1999.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

In addition, I ask unanimous consent the nomination of Paul Fiddick be discharged from the Agriculture Committee and that the Senate proceed to that nomination, en bloc.

I further ask unanimous consent the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there an objection?

Mr. TORRICELLI. Reserving the right to object, Mr. President, included in these nominations is the United States attorney for New Jersey, Faith Hochberg, of the Federal district court, who has been nominated by the President, Mrs. Hochberg's quest for the Federal district court began with my predecessor, Senator Bradley, who nominated her. I, indeed, succeed in that quest and am very pleased tonight she will be confirmed to the Federal district court.

I think Senator LEAHY for his efforts in the course of the last week to bring the nomination forward and, of course, Senator GRASSLEY for his efforts tonight. She succeeded in having been an extraordinarily successful United States attorney. We are very grateful for her service that now comes to an end and wish her well in the Federal district court.

I have no objection. The PRESIDING OFFICER. The objection is withdrawn.

Without objection, it is so ordered. The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR
Kenneth M. Bresnahan, of Virginia, to be Chief Financial Officer, Department of Labor.

DEPARTMENT OF COMMERCE
Cheryl Shavers, of California, to be Under Secretary of Commerce for Technology Policy.

INTER-AMERICAN DEVELOPMENT BANK
Lawrence H. Evans, of Tennessee, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

DEPARTMENT OF LABOR
Edward B. May, of Maryland, to be an Assistant Secretary of Labor.

Richard M. McGahey, of the District of Columbia, to be an Assistant Secretary of Labor.

EXPORT-IMPORT BANK OF THE UNITED STATES
Dorian Vanessa Weaver, of Arkansas, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2003.

Dana R. Kenberg, of Maryland, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2003.

MISSISSIPPI RIVER COMMISSION
Major General Phillip R. Anderson, United States Army, to be a Member and President of the Mississippi River Commission.

Sam Epstein Angel, of Arkansas, to be a Member of the Mississippi River Commission for a term of nine years.

Brigadier General Robert H. Griffin, United States Army, to be a Member of the Mississippi River Commission.

FEDERAL TRADE COMMISSION
Thomas B. Leary, of the District of Columbia, to be a Federal Trade Commissioner for the term of seven years from September 26, 1998.

DEPARTMENT OF TRANSPORTATION
Stephen D. Van Beek, of the District of Columbia, to be an Associate Deputy Secretary of Transportation.

Michael J. Frazier, of Maryland, to be an Assistant Secretary of Transportation.

Gregory Rohde, of North Dakota, to be Assistant Secretary of Commerce for Communications and Information.

THE JUDICIARY
Florence Marie Cooper, of California, to be United States District Judge for the Central District of California.

William Joseph Haynes, J.R., of Tennessee, to be United States District Judge for the Middle District of Tennessee.

Ronald A. Guzman, of Illinois, to be United States District Judge for the Northern District of Illinois.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD
Gerald V. Poje, of Virginia, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

TENNESSEE VALLEY AUTHORITY
Skila Harris, of Kentucky, to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2008.

Glenn L. McCullough, J.R., of Mississippi, to be a Member of the Board of Directors of the Tennessee Valley Authority for the remainder of the term expiring May 18, 2005.

UNITED STATES SENTENCING COMMISSION
Michael O'Neill, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

Joe Kendall, of the District of Columbia, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2001.

John R. Steer, of Virginia, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 1999.

John R. Steer, of Virginia, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

Ruben Castillo, of Illinois, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

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.

Diana E. Murphy, of Minnesota, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2005.

Diana E. Murphy, of Minnesota, to be Chair of the United States Sentencing Commission.

Sterling R. Johnson, J.R., of New York, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2005.

William Sessions, III, of Vermont, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

DEPARTMENT OF JUSTICE
Paul L. Seave, of California, to be United States Attorney for the eastern District of Columbia for a term of four years.

J. John W. Marshall, of Virginia, to be Director of the United States Marshals Service.

Kathryn M. Turman, of Virginia, to be Director of the Office of Victims of Crime.

Melvin W. Kahle, of West Virginia, to be United States Attorney for the Northern District of West Virginia for a term of four years.

DEPARTMENT OF COMMERCE
Q. Todd Dickinson, of Pennsylvania, to be Commissioner of Patents and Trademarks.

Anne H. Chasser, of Ohio, to be Assistant Commissioner of Patents and Trademarks.

FEDERAL MEDIATION AND CONCILIATION DIRECTOR
Charles Richard Barnes, of Georgia, to be Federal Mediation and Conciliation Director.

A. Lee Fritschler, of Pennsylvania, to be Assistant Secretary for Postsecondary Education, Department of Education.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
Linda Lee Aaker, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Edward L. Ayers, of Virginia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Pedro G. Castillo, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2005.

Peggy Whitman Preshaw, of Louisiana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Theodore William Striggles, of New York, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Evelyn Edson, of Virginia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

DEPARTMENT OF EDUCATION
Michael Cohen, of Maryland, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

DEPARTMENT OF POSTAL SERVICE

LeGree Sylvia Daniels, of Pennsylvania, to be a Governor of the United States Postal Service for a term expiring December 8, 2007.

EXECUTIVE OFFICE OF THE PRESIDENT
Joshua Gotbaum, of New York, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

SOCIAL SECURITY ADMINISTRATION
James G. Huse, J.R., of Maryland, to be Inspector General, Social Security Administration.

DEPARTMENT OF STATE
David H. Kaeuper, of the District of Columbia, to be 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 Congo.
America to the Sessions of the General Assembly of the United Nations during his tenure of service as Deputy Representative of the United States of America to the United Nations General Assembly.

John E. Lang, of Wisconsin, to be a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank and status of Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Delano Eugene Lewis, Sr., of New Mexico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

Avis Thayer Bohlen, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Alternate Representative of the United States of America to the Forty-fifth Session of the General Assembly of the United Nations.

Lawrence H. Summers, of Maryland, to be United States Governor of the International Development Fund for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

James B. Cunningham, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Norman Wulf, of Virginia, a Career Member of the Senior Executive Service, to be a Special Representative of the President, with the rank of Ambassador.

AFRICAN DEVELOPMENT BANK

Willene A. Williams, of New York, to be United States Director of the African Development Bank for a term of five years.

DEPARTMENT OF STATE

Edward S. Walker, Jr., of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Alternate Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Harriet L. Elam, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Alternate Representative of the United States of America to the Republic of Senegal.

Gary L. Ackerman, of New York, to be United States Director of the African Development Bank for a term of five years.

DEPARTMENT OF THE TREASURY

Irwin Belk, of North Carolina, to be an Alternate Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

Revis O. Ortique, Jr., of Louisiana, to be an Alternate Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

FEDERAL MARITIME COMMISSION


FOREIGN SERVICE

Nominations beginning Samuel Anthony Rubino, and ending Christopher Lee Hill. From those nominations, which were received by the Senate and appeared in the Congressional Record of February 23, 1999.

Nominations beginning George C. Carver, and ending Steven G. Wisecarver, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 1999.

Nominations beginning Johnnie Carson, and ending Susan H. Swart, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1999.

Nominations beginning Rubein Michael Rafferty, and ending Stephen R. Kelly, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1999.

Nominations beginning C. Miller Crouch, and ending Gary B. Pergl, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1999.

Nominations beginning Rita D. Jennings, and ending Carol Lynn Dorsey, which nominations were received by the Senate and appeared in the Congressional Record of November 3, 1999.

DEPARTMENT OF AGRICULTURE

Paul W. Fiddick, of Texas, to be an Assistant Secretary of Agriculture.

Mr. LAUTENBERG. Mr. President, I am pleased that the Senate has confirmed Faith Hochberg for a seat on the U.S. District Court for New Jersey. I want to thank Senators HATCH and LEAHY for moving ahead with this nomination at a time when New Jersey's Federal bench is struggling with heavy caseloads and a shortage of judges. Today's action will help New Jersey's Federal courthouses be more fair and more efficient.

Ms. Hochberg has served with distinction as the U.S. Attorney for New Jersey since 1994 and she couldn't be more qualified for a Federal judgeship. President Clinton nominated Ms. Hochberg for the District Court on April 22. As the first female U.S. Attorney for New Jersey at the Federal bench, Ms. Hochberg spearheaded corruption probes that led to the conviction of numerous Newark officials. She also participated in the prosecution of Unabomber Theodore Kaczynski, and the unrelieved widespread police corruption in several North Jersey communities.

Her office also has a record of aggressively pursuing child pornography from 1994 through 1998. Ms. Hochberg's attorneys handled 67 of those cases, which was the second-highest number among U.S. Attorneys offices across the country.
Since 1997, Ms. Hochberg has been a member of the Attorney General's Advisory Committee, which advises Attorney General Janet Reno on issues affecting the U.S. Attorney's Office. Ms. Hochberg, in fact, chairs the White Collar Crime Subcommittee and serves on a committee that has focused the committee's attention on cyber-crime issues, which of course will be an increasing concern in the next century.

This is particularly true in New Jersey, which has a concentration of high-tech industries and serves as a computer nerve center for large New York-based corporations and the Federal Reserve Bank of New York.

Prior to her service as U.S. Attorney, Ms. Hochberg served as Deputy Assistant Secretary of the Treasury for law enforcement as well as Senior Deputy Chief Counsel for the Treasury's Office of Thrift Supervision.

She also has experience in the private sector, having worked as a partner in a prestigious New Jersey law firm. Ms. Hochberg also has outstanding academic credentials. She graduated magna cum laude in 1975 from Harvard Law School, where she edited the Law Review. In 1972, she graduated summa cum laude from Tufts University.

Mr. President, Ms. Hochberg has also been a pioneer in her efforts to keep guns out of the hands of criminals. She and a former New Jersey Attorney General organized a project that alerts law enforcement each time a gun is recovered during a criminal incident. That allows those guns to be traced to their sources.

Mr. President, this confirmation could not come at a better time. New Jersey's Federal courthouses are stressed to the limit and delays are becoming more and more common.

Again, I thank Senator HATCH and Senator LEAHY for their efforts to confirm Faith Hochberg. I know she will be an outstanding U.S. Attorney.

Mr. MOYNIHAN. Mr. President, the Senate has just confirmed Daniel French to be a United States District Court Judge in the Los Angeles Superior Court. From 1990±1991 she was a Court Commissioner for the Los Angeles Superior Court. Then, from 1983±1990 she was a Judge of the California Court of Appeal Second Appellate District. From 1978 to 1983, she was a Senior Richardson in the California Court of Appeal Second Appellate District. Then, from 1983±1990 she was a Court Commissioner for the Los Angeles Superior Court. From 1990±1999 she was a Judge in the Los Angeles Municipal Court. Since 1993 she has been a Judge in the Los Angeles Superior Court.

Judge Cooper received her undergraduate degree in 1971 from the City College of San Francisco, and her law degree from Whittier College School of Law in 1975. Following law school, she clerked for the Honorable Arthur Alarcon on the Los Angeles Superior Court Appellate Panel.

The Senate could help Judge Florence-Marie Cooper's future workload if it would likewise take up and consider the nominations of the other nominees to her District Court: Judge Virginia Phillips, Dolly Gee and Frederic Woocher. Virginia Phillips was first nominated back in May 1998 and is still awaiting a hearing in order to fill a judicial emergency vacancy on that Court. The Judiciary Committee recently received a letter from Chief Judge Hatter of that Court in which he implored the Senate to act promptly on the nominations of Virginia Phillips. Judge Hatter notes that the Eastern Division of the Central District is one of the fastest growing areas in the nation and has only one judge to "staggering caseload." He explains that the reassignment of cases to Los Angeles from San Bernadino "results in a large number of litigants, witnesses, lawyers, and law enforcement officers having to travel to Los Angeles, some sixty (60) miles away, by way of the most traffic congested roads in the United States." I thank Chief Judge Hatter for his letter and want him to know that I, for one, understand those who see judicial vacancies problem ought to consider Chief Judge Hatter's perspective and the problems created for thousands of people each year in his District.

The Senate also has before it, ready for a final confirmation, the nominations of Judge Richard Paez, Marshal Berzon and Ronald Gould, to the Ninth Circuit. The nomination that has been longer before the Senate is that of Judge Richard Paez, nearly ten months. The nomination that has been longest is that of Marshal Berzon, whose nomination was reported on July 1, before the 4th of July recess, before the extended August recess and before the Columbus Day recess.

The Senate could and should be voting up or down on the Paez and Berzon nominations. The Senate needs to fulfill its duty to each of these outstanding nominees and the millions of people served by the Ninth Circuit. A few anonymous Republican Senators are holding up action on these important nominations. Two weeks ago, the Majority Leader came to the floor and said that he would try to find a way to have these two nominations considered by the Senate. The way is to call them to a fair up-or-down vote. I want to help the Republican leader and help the Senate find its way clear to do that without additional delay and obstruction.

Despite the policy announced at the beginning of this year doing away with "secret holds," that is what Judge Paez and Marshal Berzon still confront as the nominations are obstructed under a cloak of anonymity after 44 months and 20 months, respectively. That is wrong and unfair. This continuing delay demeans the Senate, itself, and the institutions and traditions. Still, I must say that this use of secret holds for extended periods that do not
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from ever being considered by the United States Senate is wrong and unfair and beneath us. Who is it that is afraid to vote on these nominations? Who is it that must hiding their to these nominees? After almost 4 years with respect to Judge Paez and Judge Marsha Berzon, it is time for the Senate to vote up or down on these nominations.

The Chief Justice of the United States Supreme Court wrote in January last year:

"Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. *** The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down."

At the time the Chief Justice issued this challenge, Judge Paez' nomination had already been pending for 24 months. The Senate received the nomination within days of the Chief Justice's report. That was almost 2 years ago and still the Senate stalls and refuses to vote. Let us follow the advice of the Chief Justice. Let the Republican leadership schedule fair up or down votes on the nominations of Judge Paez and Marsha Berzon so that the Senate can finally act on them. Let us be fair to all.

The debate on judicial nominations over the last couple of weeks has focused the Senate and the public on the unconscionable treatment by the Senate majority of selected nominees. The most prominent current examples of that treatment are Judge Paez and Marsha Berzon. With respect to these nominations, the Senate is refusing to do its constitutional duty and vote. I challenged the Senate last Friday, in the aftermath of the rejection of the nomination of Justice Ronnie White by the Republican caucus, to vote on the nominations of Judge Paez, Marshal Berzon, Judge Julio Fuentes, Judges Ann Williams, Judge James Wynn, Kathleen McGee Lewis and Enrique Moreno.

Nominees deserve to be treated with dignity and dispatch—not delayed for 2 and 3 and 4 years. I continue to urge the Republican Senate leadership to proceed to vote on the nominations of Judge Richard Paez and Marsha Berzon. There was never a justification for the Republican majority to deny these nominees a fair up or down vote. There is no excuse for their continuing failure to do so.

I know the Senate has done the right thing and confirmed Judge Florence-Marie Cooper to the Central District of California and that she will be an outstanding judge. I will continue my efforts to bring to a vote the nominations of Judge Richard Paez and Marsha Berzon.

Legislative Session

The President pro tempore, the Senate will resume legislative session.

Recognizing Members of the Armed Forces and Civilian Employees Who Participated in Kosovo and the Balkans

Mr. Grassley. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 224 and the Senate proceed to its immediate consideration.

The President pro tempore. The roll call vote is ordered.

The legislative clerk read as follows:

A resolution (S. Res. 224) expressing the sense of the Senate to designate November 11, 1999, as a special day for recognizing the members of the Armed Forces and the civilian employees of the United States who participated in the recent conflict in Kosovo and the Balkans.

There being no objection, the Senate proceeded to consider the resolution.

Mr. Cleland. Mr. President, I am reminded of incredibly sacred places and moments in our history when I rise to talk about recognition of our veterans—past and present—on Veteran's Day—recognizing all our veteran's contributions, places like Arlington National Cemetery, Andersonville, Georgia, the beaches of Normandy, Pearl Harbor, the Chosin Reservoir, Keshan, the deserts of Kuwait, and now the skies over Kosovo, should be indelibly etched in our hearts.

It is often said "Poor is the nation which has no heroes, but poorer still is the nation which has them but forgets." We will gather all over this great nation on Thursday, November 11, 1999 to remember for the last time this century our veterans and to restate our commitment that they will never be forgotten. I consider all those who has ever been in uniform to my brothers and sisters. We all came to these hollowed chambers through distant memories. I got to Washington because of those who served in the military and I work here, day in and day out, for them!

As we depart Washington, I ask that we reiterate our promise to our Soldiers, Sailors, Airmen, Marines, DoD civilians, and their families—that they will not be slighted, now or ever—that we honor their service—that we honor the service of those still missing, because their plight is our plight. We cannot honor our veterans properly without remembering the sacrifices of war—these are the issues that hit home. We remember those service members who have sacrificed for this nation, and we pay special tribute to their family all our thoughts.

I ask through my resolution that we additionally pay special tribute this Veteran's Day to those service members—active, guard, reserve, and civilians—who participated in the recently successful military operations—combat and humanitarian in Kosovo and the entire Balkans area of operations.

Over 39,000 members of the Armed Services deployed to the Balkans area during the peak of Kosovo operations, 700 U.S. aircraft were deployed, 37,000 overall missions were flown with 25,000 of these by U.S. aircraft, and 5,000 missions were weapons strike missions. We all know that this is only a partial picture because of the ever changing environment, on the ground, on the high seas, and in the air. These facts fit any definition of warfare.

We can not forget these individuals and their families any more than we can forget those of all of our past wars. If freedom is the fruit of victory, Veteran's Day reminds us too of the cost of war—casualties, POWs, and MIA's. They live in our hearts while we live in the world they made safe for us. I call for us all this Veteran's Day to remember especially our Kosovo and Balkans service members as we remember all past veterans.

Every day I wake up, I thank God I am here. I am inspired to continue living in the memory of our veteran's. The vigilance of those that went to Kosovo, like those who still serve in the Balkans, those in the desert, those in ships, and those in Korea and in the far corners of the earth, is now my vigil. Their fight is my fight. I ask my colleagues to remember and to ensure that their sacrifices are not made in vain.

Secretary Cohen recently stated at the POW/MIA recognition ceremony at Arlington National Cemetery—an awesome, somber experience—that "we are the heirs of freedom, paid for with the blood of patriots." I ask my colleagues to remember our Kosovo and Balkans patriots in their ceremonies this Veteran's Day. How fortunate we are, how much we owe.

I will be remembering veterans from Georgia in the Kosovo conflict, especially veterans from Warner Robbins Air Force Base, Fort Stewart near Savannah, the naval stations in Atlanta and Moody Air Force Base in Valdosta.

I thank the Chair.

Mr. Grassley. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements be printed in the Record.

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

The resolution (S. Res. 224) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 224

Whereas approximately 39,000 members of the Armed Forces and civilian employees of the United States were deployed at the peak of the conflict in Kosovo;

Whereas approximately 700 United States aircraft were deployed and committed to combat missions during that conflict;

Whereas approximately 37,000 combat sorties were flown by aircraft of the North Atlantic Treaty Organization (NATO) during that conflict;

Whereas approximately 25,000 combat sorties were flown by United States aircraft during that conflict;
WHEREAS more than 5,000 weapons strike missions were completed during that conflict;
WHEREAS that conflict was the largest combat operation in the history of the North Atlantic Treaty Organization;
WHEREAS the United States and the North Atlantic Treaty Organization achieved all the military objectives of that conflict;
WHEREAS there were no United States or North Atlantic Treaty Organization combat fatalities during that conflict; and
WHEREAS that conflict was the most precise air assault in history: Now, therefore, be it
Resolved, That it is the sense of the Senate—
(1) to designate November 11, 1999, as a special day for recognizing and welcoming home the members of the Armed Forces (including active component and reserve component personnel), and the civilian personnel of the United States, who participated in the recently-completed operations in Kosovo and the Balkans, including combat operations and humanitarian assistance operations;
(2) to designate November 11, 1999, as a special day for remembering the members of the Armed Forces deployed in Kosovo and throughout the world, and the families of such members;
(3) to make the designations under paragraphs (1) and (2) on November 11, 1999, in light of the traditional celebration and recognition of the veterans of the United States on November 11 each year;
(4) to acknowledge that the members of the Armed Forces who served in Kosovo and the Balkans responded to the call to arms during a time of change in world history;
(5) to recognize that we live in times of international unrest and that the conflict in Kosovo was a dangerous military operation, as all combat operations are; and
(6) to acknowledge that the United States owes a debt of gratitude to the members of the Armed Forces who served in the conflict in Kosovo, to their families, and to all the members of the Armed Forces who place themselves in harm's way each and every day.

APPOINTMENT TO INTELLIGENCE COMMITTEE

Mr. GRASSLEY. I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 232, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 232) making changes to Senate Committees for the 106th Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. I ask unanimous consent that the resolution be agreed to and the question to reconsider be laid upon the table.

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

The resolution (S. Res. 232) was agreed to, as follows:

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of rule XXV, the following changes shall be effective on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Committee on Intelligence: Effective the 2nd session of the 106th Congress, remove Mr. DeWine, and Mr. Kerrey.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 106-16

Mr. GRASSLEY. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following convention transmitted to the Senate on November 10, 1999, by the President of the United States: Treaty with Ukraine on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 106-16).

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 ordered to be printed; and that 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, I transmit herewith the Treaty Between the United States of America and Ukraine on Mutual Legal Assistance in Criminal Matters with Annex, signed at Kiev on J uly 22, 1998. I transmit also, for the information of the Senate, an exchange of notes which was signed on September 30, 1999, which provides for its provisional application, as well as the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including drug trafficking offenses. The Treaty is self-executing. It provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking of testimony or statements of persons; providing documents, records, and articles of evidence; serving documents; locating or identifying persons; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to restraint, confiscation, forfeiture of assets, restitution, and collection of fines; and any other form of assistance not prohibited by the laws of the requested state.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.


ORDERS FOR FRIDAY, NOVEMBER 12, 1999, AND TUESDAY, NOVEMBER 16, 1999

Mr. GRASSLEY. I ask unanimous consent when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Friday, November 12, for a pro forma session only.

I further ask consent that the Senate immediately adjourn until 10 a.m., on Tuesday, November 16, and immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later that day. The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. For the information of all Senators, the Senate will convene on Friday for a pro forma session only. No business will be transacted on Friday.

On Tuesday, the Senate will convene and begin processing the appropriations items and various conference reports received from the House.

On Wednesday morning, the Senate will conduct a rollcall vote in relation to the agricultural amendment by Senator WELLS TON. Additional votes can be anticipated in an effort to complete the first session of the 106th Congress. Therefore, Senators should adjust their schedules for the possibility of votes throughout the day and into the evening on Wednesday.

I appreciate the patience and cooperation of our colleagues as we attempt to complete the appropriations process and end the first session of the 106th Congress.

Mr. LEAHY. If the Senator will yield for a moment?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I commend the distinguished acting majority leader for the number of nominations that have been cleared. I hope my side of the aisle will work with the majority leader to clear some more before we go out, especially among the judges. We have a number that have been pending and are noncontroversial and should be cleared.

I also hope that on Wednesday we will go to the conference report on the satellite bill. It passed the House, I think, 411-8, which shows the enormous support it has. I hope we get it out of here; otherwise, we run the risk of hundreds of thousands of American families and TV sets around this country going blank on a number of their channels on December 31. This has enormous importance.

As I said, the House passed it 411-8. They are showing more unanimity than on just about anything they have done this year. We passed it, I believe, unanimously. That, and the attendant Hatch-Leahy patent bill—which I think
is extremely important—I hope we get through before we go out.

I mention that, but I also did want to commend the Senator from Iowa, both in his capacity as the Senator from Iowa and in his capacity as acting leader, for speaking up as majority leader or assistant majority leader on some of the things he said. But I do share his view, especially coming from a rural State, as the Senator from Vermont does, that there is very much benefit for our rural constituents in that satellite viewers legislation. I, too, would like to see it pass.

I can say again, not for the leader but for myself, I have observed a lot of contact between important Senators around that issue. There is a real effort being made to find a solution so that can be passed so on December 31 what you said would happen, and what would actually happen if the bill does not pass will not in fact happen.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

NOMINATIONS

Executive nominations received by the Senate November 10, 1999:

DEPARTMENT OF EDUCATION

FRANK S. HOLLEMEN, OF SOUTH CAROLINA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE MADELINE KUNIN.

NATIONAL MEDIATION BOARD

MAGDALENA G. JACOBSEN, OF OREGON, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2002. (REAPPOINTMENT)

FRANCIS J. DUGGAN, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2002. (REAPPOINTMENT)

ERNEST W. DUBEY, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2002. (REAPPOINTMENT)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE


CONFIRMATIONS

Executive nominations confirmed by the Senate November 10, 1999:

DEPARTMENT OF LABOR

KENNETH M. BRESNAHAN, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF LABOR.

DEPARTMENT OF COMMERCE

CHERYL SHANNON, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY POLICY.

INTER-AMERICAN DEVELOPMENT BANK

LAWRENCE HARRINGTON, OF TENNESSEE, TO BE AN ASSISTANT SECRETARY OF LABOR.

RICHARD M. MCCAGNEY, OF IOWA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

EXTRA-IMPORT BANK OF THE UNITED STATES


MISSISSIPPI RIVER COMMISSION

MRS. RICHARD M. MC GAHEY, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR.


NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

LINDA LEE LEE, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004. (REAPPOINTMENT)

MATTHEW T. HUNT, OF MONTANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004. (REAPPOINTMENT)

SCOTT L. PERKINS, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004. (REAPPOINTMENT)

NATIONAL MEDAL OF ARTS AWARD

HERBERT A. GILLET, OF RHODE ISLAND, TO BE THE ARTIST WHO HAS BEEN SELECTED TO RECEIVE THE NATIONAL MEDAL OF ARTS AWARD FOR THE YEAR 1999.

JOHN A. HALL, JR., OF IOWA, TO BE THE ARTIST WHO HAS BEEN SELECTED TO RECEIVE THE NATIONAL MEDAL OF ARTS AWARD FOR THE YEAR 1999.

NATIONAL MEDIATION BOARD

GARY A. BARRON, OF FLORIDA, TO BE A MEMBER OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING JANUARY 31, 2002. (REAPPOINTMENT)

MITCHELL J. JUDAH, OF ILLINOIS, TO BE A MEMBER OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING JANUARY 31, 2002. (REAPPOINTMENT)

SUSAN D. MAHONEY, OF CALIFORNIA, TO BE A MEMBER OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING JANUARY 31, 2002. (REAPPOINTMENT)

NATIONAL MEDAL OF ARTS

FRANK S. HOLLEMEN, OF SOUTH CAROLINA, TO BE THE PRODUCER WHO HAS BEEN SELECTED TO RECEIVE THE NATIONAL MEDAL OF ARTS FOR THE YEAR 1999.

WILLIAM P. HENCH, OF VIRGINIA, TO BE THE PRODUCER WHO HAS BEEN SELECTED TO RECEIVE THE NATIONAL MEDAL OF ARTS FOR THE YEAR 1999.

NATIONAL MEDAL OF CULTURAL HERITAGE


JAMES W. FOSTER, OF NEW HAMPSHIRE, TO BE THE ARTIST WHO HAS BEEN SELECTED TO RECEIVE THE NATIONAL MEDAL OF CULTURAL HERITAGE FOR THE YEAR 1999.

UNITED STATES MEDIATION BOARD

JOHN D. STREET, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF LABOR.

PAMELA G. FOSTER, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES MEDIATION BOARD FOR A TERM EXPIRING JANUARY 26, 2004. (REAPPOINTMENT)

KIMBERLY C. HARRIS, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES MEDIATION BOARD FOR A TERM EXPIRING JANUARY 26, 2004. (REAPPOINTMENT)

WILLIAM E. OWEN, JR., OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES MEDIATION BOARD FOR A TERM EXPIRING JANUARY 26, 2004. (REAPPOINTMENT)

NATIONAL MEDAL OF ARTS AND HUMANITIES

LOUIS M. KLEIN, OF NEW YORK, TO BE THE ARTIST WHO HAS BEEN SELECTED TO RECEIVE THE NATIONAL MEDAL OF ARTS AND HUMANITIES FOR THE YEAR 1999.

DEPARTMENT OF STATE

DAVID H. KARST, OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO THE REPUBLIC OF BOTSWANA.

DONALD D. LEWITZ, OF NEW MEXICO, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO SOUTHERN AFRICA.

AVIS THAYER BODLEN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (NORTH AND SOUTH AMERICA) AND COUNSELOR ON U.N. AND MIDDLE EAST MATTERS.

DONALD STUART HAYS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO SWAZILAND.

J. BRUCE TAPPAN, OF MICHIGAN, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO THE EASTERN EUROPEAN STATES.

GREGORY LEE JOHNSON, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO BURKINA FASO.

J. ROBERT WEAVER, OF TENNESSEE, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO BURundi.

CHARLES TAYLOR MANSETT, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO THE PEOPLE'S REPUBLIC OF CHINA.

MARY C. TAYLOR, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO TAIWAN.

J. BRUCE TAPPAN, OF MICHIGAN, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO THE DAGHESTAN REPUBLIC.

MARTIN S. INDYK, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO EQUATORIAL GUINEA.

ANTHONY STEPHEN HARRINGTON, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO THE FEDERATIVE REPUBLIC OF BRAZIL.

J. ROBERT WEAVER, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLeni-POTENTIARY OF THE UNITED STATES TO BULGARIA DURING HIS TENURE OF SERVICE AS DEPUTY DIRECTOR OF THE NATIONAL SECURITY AFFAIRS.

CHARLES TAYLOR MANSETT, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (NON-LIFETIME) FOR MANAGEMENT AND REFORM.

LAWRENCE H. SUMMERS, OF MARYLAND, TO BE UNITED STATES GOVERNOR OF THE EUROPEAN MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK.

UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; UNITED STATES GOVERNOR OF THE EUROPEAN MONETARY FUND; UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK.

JAMES R. WYATT, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER, TO BE REPRESENTATIVE OF THE UNITED STATES IN THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE AND DEPUTY DIRECTOR OF THE NATIONAL SECURITY AFFAIRS.

HARRIET L. ELAM, OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, TO BE AN ASSISTANT SECRETARY OF STATE FOR MANAGEMENT AND BUDGET.

UNITED STATES GOVERNOR OF THE UNITED STATES POSTAL SERVICE.

DEPARTMENT OF JUSTICE

PAUL L. SEAVE, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS.

JOHN W. MARSHALL, OF VIRGINIA, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE.

DEPARTMENT OF COMMERCE

T. TODD DICKINSON, OF PENNSYLVANIA, TO BE COMMISSIONER OF PATENTS AND TRADEMARKS.

ANN H. CHASSER, OF OHIO, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS.

DEPARTMENT OF THE TREASURY

ANN CLAIRE WILLIAMS, OF ILLINOIS, TO BE A MEMBER OF THE SENATE COMMITTEE ON THE CONSTITUTIONAL COMMITTEE OF THE SENATE.

JERSEY STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1999.


DOUGLAS B. HUGO, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR.

ROBERT J. EINHORN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (NON-LIFETIME) FOR MANAGEMENT AND REFORM.

ANN H. CHASSER, OF OHIO, TO BE AN ASSISTANT SECRETARY OF STATE (EDUCATIONAL AND CULTURAL AFFAIRS).

PETER T. KING, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES TO THE FIFTY-FIRED SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

J. STAPLETON ROY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, TO BE THE PERSONAL REPRESENTATIVE OF THE SECRETARY OF STATE FOR SOUTHERN ASIA.

WILLIAM B. BADER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE FOR MANAGEMENT AND REFORM.


THE UNITED STATES ATTORNEY FOR THE DISTRICT OF COLUMBIA.

WILLIAM A. HALTER, OF ARKANSAS, TO BE DEPUTY COMMISSIONER FOR LEGAL SERVICES FOR THE TERM EXPIRING JANUARY 30, 2002.

GREGORY L. BAER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE FOR MANAGEMENT AND REFORM.

UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF FLORIDA.

CAROL MOSELEY-BRAUN, OF ILLINOIS, TO SERVE CONCURRENTLY WITH HER CAREER SERVICE AS AN ASSISTANT SECRETARY OF STATE AND MEMBERS-AT-LARGE OF THE INTER-AMERICAN FOUNDATION.


POPE I. WELBY, JR., OF NORTH CAROLINA, TO BE AN ALTERTATE REPRESENTATIVE OF THE UNITED STATES TO THE FIFTY-FOURTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JUINUS A. ORTIQUE, JR., OF LOUISIANA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES TO THE FIFTY-FOURTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.


HERMAN C. HONORAT, JR., OF LOUISIANA, TO BE A REPRESENTATIVE OF THE UNITED STATES TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW HAMPSHIRE.

PAUL H. CHESSELL, OF NEW HAMPSHIRE, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES TO THE WORLD TRADE ORGANIZATION, WITH THE RANK OF AMBASSADOR.


UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NEW YORK.

WILLIAM J. FITZGERALD, JR., OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENI-POTENTIARY OF THE UNITED STATES TO THE REPUBLIC OF SOUTH AFRICA.

UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK.

UNITED STATES GOVERNOR OF THE UNITED STATES POSTAL SERVICE.


UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2003.
Daily Digest

HIGHLIGHTS

Senate passed Continuing Appropriations.

Senate

Chamber Action

Routine Proceedings, pages S14437-S14592

Measures Introduced: Twenty-two bills and four resolutions were introduced, as follows: S. 1899-1920, S. Res. 231-232, and S. Con. Res. 72-73. Pages S14532-33

Measures Reported: Reports were made as follows: S. Res. 216, designating the Month of November 1999 as “National American Indian Heritage Month”. Page S14532

Measures Passed:

Continuing Appropriations: Senate passed H.J. Res. 78, making further continuing appropriations for the fiscal year 2000, clearing the measure for the President. Pages S14480-81

FAA Authorization Extension: Senate passed S. 1916, to extend certain expiring Federal Aviation Administration authorizations for a 6-month period. Page S14585

Recognizing Members of the Armed Forces: Committee on the Judiciary was discharged from further consideration of S. Res. 224, expressing the sense of the Senate to designate November 11, 1999, as a special day for recognizing the members of the Armed Forces and the civilian employees of the United States who participated in the recent conflict in Kosovo and the Balkans, and the resolution was then agreed to. Pages S14589-90

Committee Appointments: Senate agreed to S. Res. 232, making changes to Senate committees for the 106th Congress. Page S14590

Bankruptcy Reform Act: Senate continued consideration of S. 625, to amend title 11, United States Code, agreeing to committee amendments by unanimous consent, taking action on the following amendments proposed thereto:

Pages S14439-73, S14481-S14512

Adopted:

By 50 yeas to 49 nays (Vote No. 360), Grassley (for Hatch) Amendment No. 2771, to amend the Controlled Substances Act and the Controlled Substances Import and Export Act relating to the manufacture, traffic, import, and export of amphetamine and methamphetamine. Pages S14439-57, S14460-71

By 76 yeas to 22 nays, 1 responding present (Vote No. 264), Kohl Modified Amendment No. 2516, to limit the value of certain real or personal property a debtor may elect to exempt under State or local law. Pages S14439, S14481-90

Grassley/Torricelli Modified Amendment No. 2515, to make certain technical and conforming amendments. Pages S14490-95

Grassley (for Jeffords) Amendment No. 2648, to protect the citizens of State of Vermont from the impacts of the bankruptcy of electric utilities in the State. Page S14510

Rejected:

By 29 yeas to 69 nays, 1 responding present (Vote No. 363), Hutchison/Brownback Amendment No. 2778, to allow States to opt-out of any homestead exemption cap. Pages S14481-90

By 45 yeas to 51 nays, 1 responding present (Vote No. 365), Dodd Modified Amendment No. 2532, to provide for greater protection of children. Pages S14439, S14499-S14502

Withdrawn:

Sessions Amendment No. 2518 (to Amendment No. 2516), to limit the value of certain real or personal property a debtor may elect to exempt under State or local law. Page S14439

Pending:

Feingold Amendment No. 2522, to provide for the expenses of long term care. Page S14439

Hatch/Torricelli Amendment No. 1729, to provide for domestic support obligations. Page S14439

Leahy Amendment No. 2529, to save United States taxpayers $24,000,000 by eliminating the blanket mandate relating to the filing of tax returns. Page S14439

D1287
Wellstone Amendment No. 2537, to disallow claims of certain insured depository institutions.

Wellstone Amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices.

Feinstein Amendment No. 1696, to limit the amount of credit extended under an open end consumer credit plan to persons under the age of 21.

Feinstein Amendment No. 2755, to discourage indiscriminate extensions of credit and resulting consumer insolvency.

Schumer/Durbin Amendment No. 2759, with respect to national standards and homeowner home maintenance costs.

Schumer/Durbin Amendment No. 2762, to modify the means test relating to safe harbor provisions.

Schumer Amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable.

Schumer Amendment No. 2764, to provide for greater accuracy in certain means testing.

Schumer Amendment No. 2765, to include certain dislocated workers' expenses in the debtor's monthly expenses.

Dodd Amendment No. 2531, to protect certain education savings.

Dodd Amendment No. 2753, to amend the Truth in Lending Act to provide for enhanced information regarding credit card balance payment terms and conditions, and to provide for enhanced reporting of credit card solicitations to the Board of Governors of the Federal Reserve System and to Congress.

Hatch/Dodd/Gregg Amendment No. 2536, to protect certain education savings.

Feingold Amendment No. 2748, to provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed.

Schumer/Santorum Amendment No. 2761, to improve disclosure of the annual percentage rate for purchases applicable to credit card accounts.

Durbin Amendment No. 2659, to modify certain provisions relating to pre-bankruptcy financial counseling.

Durbin Amendment No. 2661, to establish parameters for presuming that the filing of a case under chapter 7 of title 11, United States Code, does not constitute an abuse of that chapter.

Torricelli Amendment No. 2655, to provide for enhanced consumer credit protection.

Sessions (for Reed) Amendment No. 2650, to control certain abuses of reaffirmations.

Wellstone Amendment No. 2752, to impose a moratorium on large agribusiness mergers and to establish a commission to review large agriculture mergers, concentration, and market power.

A unanimous-consent agreement was reached providing for further consideration of Wellstone Amendment No. 2752 (listed above), on Wednesday, November 17, 1999.

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:

Treaty with Ukraine on Mutual Legal Assistance in Criminal Matters (Treaty Doc. No. 106–16)

The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and was ordered to be printed.

Messages From the President: Senate received the following message from the President of the United States:

Transmitting a report relative to the continuation of the emergency regarding weapons of mass destruction; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–73).

Nominations Confirmed: Senate confirmed the following nominations:

By 96 yeas to 3 nays (Vote No. EX. 361), Carol Moseley-Braun, of Illinois, to serve concurrently and without additional compensation as Ambassador to Samoa.

By 96 yeas to 2 nays (Vote No. EX. 361), Carol Moseley-Braun, of Illinois, to be Ambassador to New Zealand.

By 96 yeas to 3 nays (Vote No. EX. 362), Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2003. (Reappointment)

By 96 yeas to 2 nays (Vote No. EX. 361), Carol Moseley-Braun, of Illinois, to be Ambassador to New Zealand.

By 96 yeas to 3 nays (Vote No. EX. 362), Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2003. (Reappointment)

By 96 yeas to 2 nays (Vote No. EX. 361), Carol Moseley-Braun, of Illinois, to be Ambassador to New Zealand.

By 96 yeas to 3 nays (Vote No. EX. 362), Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2003. (Reappointment)

By 96 yeas to 2 nays (Vote No. EX. 361), Carol Moseley-Braun, of Illinois, to be Ambassador to New Zealand.

By 96 yeas to 3 nays (Vote No. EX. 362), Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2003. (Reappointment)

By 96 yeas to 2 nays (Vote No. EX. 361), Carol Moseley-Braun, of Illinois, to be Ambassador to New Zealand.

By 96 yeas to 3 nays (Vote No. EX. 362), Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2003. (Reappointment)
John F. Walsh, of Connecticut, to be a Governor of the United States Postal Service for a term expiring December 8, 2006.

Charles Richard Barnes, of Georgia, to be Federal Mediation and Conciliation Director.

Cheryl Shavers, of California, to be Under Secretary of Commerce for Technology.

Virginia A. Phillips, of California, to be United States District Judge for the Central District of California.

Lawrence Harrington, of Tennessee, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

Richard M. McGahey, of the District of Columbia, to be an Assistant Secretary of Labor.

Kelly H. Carnes, of the District of Columbia, to be Assistant Secretary of Commerce for Technology Policy.


Robert J. Einhorn, of the District of Columbia, to be an Assistant Secretary of State (Non-proliferation). (New Position)

Faith S. Hochberg, of New Jersey, to be United States District Judge for the District of New Jersey.

Edward B. Montgomery, of Maryland, to be an Assistant Secretary of Labor.

William Joseph Haynes, Jr., of Tennessee, to be United States District Judge for the Middle District of Tennessee.

David H. Kaeuper, of the District of Columbia, to be Ambassador to the Republic of Congo.

John E. Lange, of Wisconsin, to be Ambassador to the Republic of Botswana.

Delano Eugene Lewis, Sr., of New Mexico, to be Ambassador to the Republic of South Africa.

A. Lee Fritschler, of Pennsylvania, to be Assistant Secretary for Postsecondary Education, Department of Education.

Paul W. Fiddick, of Texas, to be an Assistant Secretary of Agriculture.

Michael Edward Ranneberger, of Virginia, to be Ambassador to the Republic of Mali.

Lawrence H. Summers, of Maryland, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

James B. Cunningham, of Pennsylvania, to be Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Harriet L. Elam, of Massachusetts, to be Ambassador to the Republic of Senegal.

Gregory Lee Johnson, of Washington, to be Ambassador to the Kingdom of Swaziland.

Jimmy J. Kolker, of Missouri, to be Ambassador to Burkina Faso.

Q. Todd Dickinson, of Pennsylvania, to be Commissioner of Patents and Trademarks.

Michael Cohen, of Maryland, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Major General Phillip R. Anderson, United States Army, to be a Member and President of the Mississippi River Commission, under the provisions of Section 2 of an Act of Congress, approved June 1879 (21 Stat. 37) (33 U.S.C. 642).

Florence-Marie Cooper, of California, to be United States District Judge for the Central District of California.

Anne H. Chasser, of Ohio, to be an Assistant Commissioner of Patents and Trademarks.

Thomas B. Leary, of the District of Columbia, to be a Federal Trade Commissioner for the term of seven years from September 26, 1998.

Dorian Vanessa Weaver, of Arkansas, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2003.

James G. Huse, Jr., of Maryland, to be Inspector General, Social Security Administration.

Stephen D. Van Beek, of the District of Columbia, to be Associate Deputy Secretary of Transportation.

Sam Epstein Angel, of Arkansas, to be a Member of the Mississippi River Commission for a term of nine years.

Brigadier General Robert H. Griffin, United States Army, to be a Member of the Mississippi River Commission, under the provisions of Section 2 of an Act of Congress, approved June 1879 (21 Stat. 37) (33 U.S.C. 642).

Michael J. Frazier, of Maryland, to be an Assistant Secretary of Transportation.

Gregory Rohde, of North Dakota, to be Assistant Secretary of Commerce for Communications and Information.

Kathryn M. Turman, of Virginia, to be Director of the Office for Victims of Crime.

Dan Herman Renberg, of Maryland, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2003.
Norman A. Wulf, of Virginia, to be a Special Representative of the President, with the rank of Ambassador.

Ronald A. Guzman, of Illinois, to be United States District Judge for the Northern District of Illinois.

Ann Claire Williams, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

Melvin W. Kahle, of West Virginia, to be United States Attorney for the Northern District of West Virginia for a term of four years.

John W. Marshall, of Virginia, to be Director of the United States Marshals Service.

Ruben Castillo, of Illinois, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

Sterling R. Johnson, Jr., of New York, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2001.

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.

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.

William Sessions, III, of Vermont, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

Willene A. Johnson, of New York, to be United States Director of the African Development Bank for a term of five years.

Joseph W. Prueher, of Tennessee, to be Ambassador to the People's Republic of China.

Linda Lee Aaker, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Edward L. Ayers, of Virginia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Pedro G. Castillo, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Peggy Whitman Prenshaw, of Louisiana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2002.

Theodore William Striggles, of New York, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

William B. Bader, of Virginia, to be an Assistant Secretary of State (Educational and Cultural Affairs).

Joshua Gotbaum, of New York, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

Joe Kendall, of Texas, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2001.

Michael O'Neill, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2003.

John R. Steer, of Virginia, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 1999.

John R. Steer, of Virginia, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2005.

Gregory A. Baer, of Virginia, to be an Assistant Secretary of the Treasury.

Mary Carlin Yates, of Washington, to be Ambassador to the Republic of Burundi.

Ira Berlin, of the District of Columbia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Evelyn Edson, of Virginia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Gerald V. Poje, of Virginia, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

Charles Taylor Manatt, of the District of Columbia, to be Ambassador to the Dominican Republic.

Gary L. Ackerman, of New York, to be a Representative of the United States of America to Fifty-fourth Session of the General Assembly of the United Nations.

Peter T. King, of New York, to be a Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

Skila Harris, of Kentucky, to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2008.

Glenn L. McCullough, Jr., of Mississippi, to be a Member of the Board of Directors of the Tennessee Valley Authority for the remainder of the term expiring May 18, 2005.

LeGree Sylvia Daniels, of Pennsylvania, to be a Governor of the United States Postal Service for a term expiring December 8, 2007.


J. Stapleton Roy, of Pennsylvania, to be an Assistant Secretary of State (Intelligence and Research).

Avis Thayer Bohlen, of the District of Columbia, to be an Assistant Secretary of State (Arms Control).

Donald Stuart Hays, of Virginia, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with the rank of Ambassador.
Daniel J. French, of New York, to be United States Attorney for the Northern District of New York for the term of four years.

Donna A. Bucella, of Florida, to be United States Attorney for the Middle District of Florida for the term of four years.

James B. Cunningham, of Pennsylvania, 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 Deputy Representative of the United States of America to the United Nations.

Donald Stuart Hays, of Virginia, to be an Alternate 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 for UN Management and Reform.

James D. Bindenagel, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Special Envoy and Representative of the Secretary of State for Holocaust Issues.

Martin S. Indyk, of the District of Columbia, to be Ambassador to Israel.

Edward S. Walker, Jr., of Maryland, to be an Assistant Secretary of State (Near Eastern Affairs).

Anthony Stephen Harrington, of Maryland, to be Ambassador to the Federative Republic of Brazil.

Irwin Belk, of North Carolina, to be an Alternate Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

Revius O. Ortique, Jr., of Louisiana, to be an Alternate Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

Antony M. Merck, of South Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2001.

1 Navy nomination in the rank of admiral.

Routine lists in the Army, Foreign Service, Marine Corps, Navy.

Nominations Received: Senate received the following nominations:

Frank S. Holleman, of South Carolina, to be Deputy Secretary of Education.

Magdalena G. Jacobsen, of Oregon, to be a Member of the National Mediation Board for a term expiring July 1, 2002.

Francis J. Duggan, of Virginia, to be a Member of the National Mediation Board for a term expiring July 1, 2000.

Ernest W. DuBester, of New Jersey, to be a Member of the National Mediation Board for a term expiring July 1, 2001.

Leslie Lenkowsky, of Indiana, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring February 8, 2004.

Juanita Sims Doty, of Mississippi, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring June 10, 2004.

Gary A. Barron, of Florida, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2002.

Alan Phillip Larson, of Iowa, to be United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years; United States Alternate Governor of the African Development Bank for a term of five years; United States Alternate Governor of the African Development Fund; United States Alternate Governor of the Asian Development Bank; and United States Alternate Governor of the European Bank for Reconstruction and Development.

Deanna Tanner Okun, of Idaho, to be a Member of the United States International Trade Commission for a term expiring June 16, 2008.

Robert M. Walker, of West Virginia, to be Under Secretary of Veterans Affairs for Memorial Affairs. (New Position)

Ernest J. Wilson III, of Maryland, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004.

Monte R. Belger, of Virginia, to be Deputy Administrator of the Federal Aviation Administration.

Eric D. Eberhard, of Washington, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship & Excellence in National Environmental Policy Foundation for a term expiring October 6, 2002.

Luis J. Lauredo, of Florida, to be Permanent Representative of the United States to the Organization of American States, with the rank of Ambassador.

Carol Waller Pope, of the District of Columbia, to be a Member of the Federal Labor Relations Authority for a term expiring July 1, 2004.

Joan R. Chalinor, of the District of Columbia, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Donald Ray Vereen, Jr., of the District of Columbia, to be Deputy Director of National Drug Control Policy.

Messages From the President:
CONGRESSIONAL RECORD — DAILY DIGEST
November 10, 1999

Messages From the House:       Pages S14530
Communications:                 Pages S14530–32
Executive Reports of Committees:Page S14532
Statements on Introduced Bills:  Pages S14533–71
Additional Cosponsors:          Pages S14571–73
Amendments Submitted:           Pages S14576–77
Authority for Committees:       Pages S14577–78
Additional Statements:          Pages S14578–85
Record Votes:                  Six record votes were taken today.
                                (Total—365)
                                Pages S14471, S14475, S14477, S14490, S14502
Adjournment:                   Senate convened at 9:30 a.m., and adjourned at 7:56 p.m., on Friday, November 12, 1999 for a pro forma session. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on pages S14590–91.)

Committee Meetings
(Committees not listed did not meet)

OVERSEAS PRESENCE ADVISORY PANEL
Committee on Foreign Relations: Subcommittee on International Operations concluded hearings to examine the Overseas Presence Advisory Panel report, focusing on the location, size, composition, and budget of overseas posts, after receiving testimony from Lewis Kaden, Chairman, Adm. William J. Crowe, Jr., USN, (Ret.), Member, and former Ambassador Langhorne Motley, Member, all of the Overseas Presence Advisory Panel.

PRIVATE BANKING
Committee on Governmental Affairs: Permanent Subcommittee on Investigations concluded hearings to examine the vulnerabilities of United States private banks to money laundering, focusing on how they accept clientele, use shell corporations and secrecy jurisdictions to open accounts and move funds, monitor clients and transactions, and identify and respond to suspicious activity, after receiving testimony from Ralph E. Sharpe, Deputy Comptroller of the Currency for Community and Consumer Policy, Department of the Treasury; Richard A. Small, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System; Raymond W. Baker, Brookings Institution, Washington, D.C.; and Antonio Giraldo, an incarcerated witness.

BUSINESS MEETING
Committee on the Judiciary: Committee ordered favorably reported the following measures:

S. Res. 216, designating the Month of November 1999 as “National American Indian Heritage Month”;
S. Res. 200, designating January 2000 as “National Biotechnology Week,” with an amendment; and,
A committee resolution, expressing the sense of the Committee on World Trade Organization negotiations.

NOMINATIONS
Committee on the Judiciary: Committee concluded hearings on the nominations of Thomas L. Ambro, of Delaware, to be United States Circuit Judge for the Third Circuit, Kermit Bye, of North Dakota, to be United States Circuit Judge for the Eighth Circuit, George B. Daniels, to be United States District Judge for the Southern District of New York, Joel A. Pisano, to be United States District Judge for the District of New Jersey, and Fredric D. Woocher, to be United States District Judge for the Central District of California, after the nominees testified and answered questions in their own behalf. Mr. Ambro was introduced by Senators Biden and Roth, Mr. Bye was introduced by Senators Conrad and Dorgan, and Representative Pomroy, Mr. Daniels was introduced by Senators Moynihan and Schumer, and Representative Rangel, Mr. Pisano was introduced by Senator Lautenberg, and Mr. Woocher was introduced by Senators Feinstein and Gordon Smith.

House of Representatives

Chamber Action
Bills Introduced: 46 public bills, H.R. 3290–3335; 29 private bills, H.R. 3336–3364; and 5 resolutions, H. Con. Res. 225–227, and H. Res. 373 and 376, were introduced.

Reports Filed: Reports were filed today as follows:
H. Res. 374, providing for consideration of motions to suspend the rules (H. Rept. 106–465); and
H. Res. 375, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain
resolutions reported from the Committee on Rules (H. Rept. 106–466).

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Ronald F. Christian of Washington, D.C.

Fathers Count Act: The House passed H.R. 3073, to amend part A of title IV of the Social Security Act to provide for grants for projects designed to promote responsible fatherhood by a yea and nay vote of 328 yeas to 93 nays, Roll No. 586.

Pages H11870–H11902

Rejected the Scott motion to recommit the bill to the Committee on Ways and Means with instructions to report it back to the House forthwith with an amendment that strikes section 101(d) and inserts language that prohibits employment discrimination by religious institutions that receive Federal funding by a recorded vote of 176 ayes to 246 noes, Roll No. 585.

Pages H11900–01

Agreed to the amendment in the nature of a substitute printed in the Congressional Record of November 9 and numbered 1, as amended, pursuant to the rule.

Agreed to:

The English amendment that requires that selection panels include individuals with experience in fatherhood programs and adds language to encourage projects promoting payment of child support;

Page H11891

The Cardin amendment that removes the limit on Welfare to Work funds for employment-related services to custodial parents who are below the poverty level and do not receive assistance from the Temporary Assistance for Needy Families program; and

Pages H11893–94

The Traficant amendment that requires the availability of education about alcohol, tobacco, and other drugs and HIV/AIDS to each individual participating in the project.

Pages H11894–95

Rejected:

The Mink amendment that sought to strike Title I, Fatherhood Grant Program and replace with the Parents Count Program (rejected by a recorded vote of 172 ayes to 253 noes, Roll No. 582).

Pages H11886–91, H11897–98

The Mink amendment that sought to strike title II that creates Fatherhood Projects of National Significance; and

Pages H11891–93, H11899

The Edwards amendment that sought to prohibit any funding to a faith-based institution that is pervasively sectarian (rejected by a recorded vote of 184 ayes to 238 noes, Roll No. 584).

Pages H11895–97, H11899–H11900

H. Res. 367, the rule that provided for consideration of the bill was agreed to by a yea and nay vote of 278 yeas to 144 nays, Roll No. 582.

Pages H11860–67

Suspensions: The House agreed to suspend the rules and pass the following measures:

Exempting Certain Reports from Automatic Elimination and Sunset: H.R. 3234, amended, to exempt certain reports from automatic elimination and sunset pursuant to the Federal Reports and Elimination and Sunset Act of 1995;

Pages H11902–04

Wartime Violation of Italian American Civil Liberties: H.R. 2442, to provide for the preparation of a Government report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgment of such injustices by the President;

Pages H11904–10

Stalking Prevention and Victim Protection: H.R. 1869, amended to amend title 18, United States Code, to expand the prohibition on stalking;

Pages H11910–13

Conservation of Migratory Bird Ecosystem: Agreed to the Senate amendments to H.R. 2454, to assure the long-term conservation of mid-continent light geese and the biological diversity of the ecosystem upon which many North American migratory birds depend, by directing the Secretary of the Interior to implement rules to reduce the overabundant population of mid-continent light geese—clearing the measure for the President;

Pages H11913–15

Water Resources Development Act: Agreed to the Senate amendment to H.R. 2724, to make technical corrections to the Water Resources Development Act of 1999—clearing the measure for the President;

Pages H11915–16

Honoring American Military Women for Their Service in World War II: H. Res. 41, amended, honoring the women who served the United States in military capacities during World War II and recognizing that these women contributed vitally to the victory of the United States and the Allies in the war;

Pages H11916–21

Recognizing the U.S. Border Patrol for 75 Years of Service: H. Con. Res. 122, recognizing the United States Border Patrol's 75 years of service since its founding;

Pages H11922–29

Competition and Privatization in Satellite Communications: H.R. 3261, to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications. Subsequently, the House passed S. 376 after amending it to contain the text of H.R. 3261. The House then insisted on its amendment and asked for
a conference on S. 376. Appointed as conferees: Chairman Bliley, and Representatives Tauzin, Oxley, Dingell, and Markey. H.R. 3261 was then laid on the table.

Suspension—Proceedings Postponed on United States Marshals Service Improvement Act: The House completed debate on H.R. 2336, amended, to amend title 28, United States Code, to provide for appointment of United States marshals by the Attorney General. Further proceedings were postponed until Friday, November 12.

Presidential Message: Read a message from the President wherein he transmitted his report concerning the national emergency with respect to weapons of mass destruction—referred to the Committee on International Relations and ordered printed. H. Doc. 106-158.

Meeting Hour—November 11: Agreed that when the House adjourns today it adjourn to meet at 2 p.m. on Thursday, November 11.

Senate Messages: Messages received from the Senate appear on pages H11856 and H11902.

Quorum Calls—Votes: Two yea and nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H11867, H11897-98, H11899-H11900, H11901, and H11902. There were no quorum calls.

Adjournment: The House met at 10:00 a.m. and adjourned at 8:25 p.m.

Committee Meetings

DOE—RESULTS OF ESPIONAGE INVESTIGATIONS
Committee on Armed Services: Subcommittee on Military Procurement met in executive session to hold a hearing on the results of the Department of Energy’s Inspector General inquiries into specific aspects of the espionage investigations at the Los Alamos National Laboratory. Testimony was heard from Gregory H. Friedman, Inspector General, Department of Energy; and the following former officials of the Department of Energy: Federico F. Peña, Secretary; Elizabeth Moler, Deputy Secretary; and Notra Trulock, Acting Director, Office of Intelligence.

HOMEOWNERS’ INSURANCE AVAILABILITY ACT

CAPITAL FORMATION IN UNDERSERVED AREAS
Committee on Banking and Financial Services, Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises held a hearing on Capital Formation in Underserved Areas. Testimony was heard from the following officials of the Department of Housing and Urban Development: Saul H. Ramirez, Jr., Deputy Secretary; and Xavier de Souza Briggs, Deputy Assistant Secretary, Office of Policy Development and Research.

GOVERNMENT WASTE CORRECTIONS ACT; DRAFT REPORT; IMMUNITY RESOLUTION

The Committee also approved the following: a committee draft report entitled: “The FALN and Macheteros Clemency: Misleading Explanations, A Reckless Decision, A Dangerous Message”; and a resolution of Immunity for Yah Lin “Charlies” Trie.

EUROPEAN COMMON FOREIGN, SECURITY AND DEFENSE POLICIES
Committee on International Relations: Held a hearing on European Common Foreign, Security and Defense Policies—Implications for the United States and the Atlantic Alliance. Testimony was heard from public witnesses.

CONSERVATION AND REINVESTMENT ACT
Committee on Resources: Ordered reported, as amended, H.R. 701, Conservation and Reinvestment Act of 1999.

OVERSIGHT—MARINE AIRLINE CRASH SITES—NOAA’S ROLE
Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on the role of the NOAA’s fleet in the recovery of data from marine airline crash sites in the Atlantic Ocean. Testimony was heard from Capt. Ted Lillestolen, Deputy Assistant Administrator, National Ocean Service, NOAA, Department of Commerce.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES
Committee on Rules: Granted, by voice vote, a rule providing that suspensions will be in order at any time on or before the legislative day of Wednesday, November 17, 1999. The rule provides that the object of any motion to suspend the rules shall be announced from the floor at least one hour prior to its consideration. The rule provides that the Speaker or his designee will consult with the Minority Leader.
or his designee on any suspension considered under this resolution. Finally, the rule provides that House Resolution 342 is laid on the table.

EXPEDITED PROCEDURES
Committee on Rules: Granted, by voice vote, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to a special rule reported on or before November 17, 1999, providing for consideration of a bill or joint resolution making continuing appropriations for the fiscal year 2000, any amendment thereto, a conference report thereon, or any amendment reported in disagreement from a conference thereon. The rule applies the waiver to a special rule reported on or before November 17, 1999, providing for consideration of a bill or joint resolution making general appropriations for the fiscal year ending September 30, 2000, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

SMALL WATERSHED REHABILITATION AMENDMENTS; MISCELLANEOUS MATTERS
Committee on Transportation and Infrastructure: Ordered reported H.R. 728, Small Watershed Rehabilitation Amendments of 1999.

The Committee also approved the following: General Services Administration's Fiscal Year 2000 leasing program; water resolutions; small watershed project; public buildings resolutions; and 11(b) resolutions.

CORPORATE TAX SHELTERS
Committee on Ways and Means: Held a hearing on corporate tax shelters. Testimony was heard from Representative Doggett; Jonathan Talisman, Acting Assistant Secretary, Tax Policy, Department of the Treasury; and public witnesses.

Joint Meetings
VETERANS’ MILLENNIUM HEALTH CARE ACT
Conferees agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 2116, to amend title 38, United States Code, to establish a program of extended care services for veterans and to make other improvements in health care programs of the Department of Veterans Affairs.

NEW PUBLIC LAWS
(For last listing of Public Laws, see Daily Digest, p. D1285)

S. 437, to designate the United States courthouse under construction at 333 Las Vegas Boulevard South in Las Vegas, Nevada, as the “Lloyd D. George United States Courthouse”. Signed November 9, 1999. (P.L. 106-91)


COMMITTEE MEETINGS FOR THURSDAY, NOVEMBER 11, 1999
Senate
No meetings/hearings scheduled.

House
No committee meetings are scheduled.
Next Meeting of the SENATE
10 a.m., Friday, November 12

Senate Chamber
Program for Friday: Senate will be in a pro forma session.

Next Meeting of the HOUSE OF REPRESENTATIVES
2 p.m., Thursday, November 11

House Chamber
Program for Thursday: Pro forma session.

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