United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, WEDNESDAY, NOVEMBER 10, 1999 No. 158

Senate

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.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at ''Records@Reporters''.

Members of the House of Representatives' statements may also be submitted electronically by e-mail or disk, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, signed manuscript. Deliver statements (and template formatted disks, in lieu of e-mail) to the Official Reporters in Room HT–60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

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.*

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

Printed on recycled paper.

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 their Government, it belongs to them. 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 over 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 they are 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 and approximately 20,000 have been 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 their 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 my friends and 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 go 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 many of our 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 $543 million—over $½ 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 day to day. 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 the buildings from 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 eastern 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

billions of dollars on projects the Pentagon did not ever 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 foreign governments, tens 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—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 need. 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, to give them 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 make good on that promise and 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 BBA, and hospitals and 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 III, 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)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(3)(A) to exempt 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 or personal 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.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''522(d),'' and inserting ''522 (d) or (n),''; and

(2) in paragraph (3), by striking ''522(d),'' and inserting ''522 (d) or (n),''.

The PRESIDING OFFICER. Under the previous order, the amendment No. 2516, as modified, is now pending.

The PRESIDING OFFICER. The Senator from Texas.

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.

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 amendment.

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 on homestead exemptions, but 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 if we have 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 my State of Texas—and they do not want to take 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 the elderly 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 make them wards of the State. We want their families to be able 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 very 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 may be offered 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 equity to sell their homes and 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 consumers to pay their debts to the extent possible, my colleagues and I would be equally concerned about the disruption to family life, particularly the harsh impact on the children of debtors that may result by the establishment of such a limit on homestead exemptions.

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. That is the key. 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-Sessions 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?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. KOHL. Mr. President, I urge my colleagues to oppose the Hutchinson/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: It's 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 in a federal court to get 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 the wish on this particular fact of 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 their legitimate creditors—like children owed child support, ex-spouses owned alimony, state governments, small businesses and banks—get left out in the cold. Last year, the full Senate unanimously went on record in favor of the $100,000 cap and emphasized that ''meaningful bankruptcy reform cannot be achieved without capping the homestead exemption.''

Curently, a handful of states allow debtors to protect their homes no matter how high their value. And all too often, millionaire debtors take advantage of this loophole by moving expensive homes in states with unlimited exemptions like Florida and Texas, and declaring bankruptcy—and then continue to live in style. Let me give you a few of the literally countless examples:

The owners of a failed Ohio S&L, who was convicted of securities fraud, wrote off most of $300 million in bankruptcy claims, but still held on to the multi-million dollar ranch be bought in Florida.

A convicted Wall Street financier filed bankruptcy while owning at least $50 million in debts and fines, but still kept his $5 million Florida home—with 11 bedrooms and 21 bathrooms.

And just last year, movies star Burt Reynolds wrote off over $8 million in debt through bankruptcy, but he still held into his $2.5 million Florida estate.

Unfortunately, those examples are just the tip of the iceberg. We asked the GAO to study this problem and, based on their estimates, 400 homeowners in Florida and Texas—all with over one hundred thousand dollars in home equity—profit from this unlimited exemption each and every year. While they continue to live in luxury, they wrote off annually an estimated $120 million debt owned to honest creditors.

Mr. President, this is not only wrong, I believe it is not acceptable. Without our amendment, the pending bill falls far short. Instead of a cap, it only imposes a 2-year residency requirement to qualify for a State exemption. And while that is a step, it will not deter a savvy debtor who plans ahead for bankruptcy, and it won't do anything about instate abusers such as Burt Reynolds. This $100,000 cap will stop these abuses without affecting the vast majority of States.

Let me make one final point. Some opt-out supporters have circulated misleading information about how many States would be affected by this cap. While a few States would be impacted, they are mistaken about eight States in particular; they are: Alabama, Colorado, Louisiana, Michigan, Mississippi, Nebraska, Oregon, and Rhode Island. We asked the Congressional Research Service to take a look, and CRS concluded that our cap would have ''no effect'' on these States.

I ask unanimous consent that the memorandum from CRS be printed in the RECORD.

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

MEMORANDUM

To: Sen. Subcommittee on Antitrust, Business Rights, and Competition. Attention: Brian Lee.

From: Robin Jeweler, 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 language that may be offered as an amendment to S. 625, 106th Cong., 1st Sess. 1999, the Bankruptcy Reform Act of 1999.

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

You have asked what effect this 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 supp): ''A homestead of not exceeding 40 acres of land and the dwelling house and appurtenances . . . not exceeding in value $3,500.''

Mississippi Code Ann. §85–3–21 (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 1) §§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, of any quantity of land 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 ORS 23.240.''

Rhode Island Gen. Laws §9–26–4.1 (1998 supp.): In addition to exempt property, ''an estate of homestead to the extent of one hundred thousand dollars ($100,000) in the land and buildings may be acquired[.]''

Although several of the state provisions cited above couch their exemptions in terms of acreage, in all cases, the monetary cap is a limitation which qualifies the value of the land permissibly exempted. With the exception of Rhode Island, the state laws cited above have monetary caps substantially less than the proposed federal cap of $100,000.

Several states, such as Florida, Iowa, Kansas, South Dakota, and Texas define their homestead exemptions by reference to quantities of land or acreage without a monetary cap. But those states which define the exemption in terms of land and value do so conjunctively, not disjunctively. Hence, a federal cap of $100,000 on the value of a homestead exemption would not appear to have any effect on the extant 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. I urge my colleagues to oppose it and to support our bipartisan $100,000 cap instead.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

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 if 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 repayment 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—Elizabeth Warren, a Harvard professor, said is ''the single biggest scandal in the consumer bankruptcy system.'' It is the unlimited homestead exemption. She said 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 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 having an unlimited 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 it. All other aspects of bankruptcy law are determined by the 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:

The First American Bank and Trust Company in Lake Worth, FL, closed in 1989.

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 7,000-square-foot mansion with five fireplaces, 16th-century European doors and a Spanish-style courtyard, all on a 30-acre lot. Yet, in Mr. Talmo's estimation, this was chintzy. He also owned an adjacent 112 acres, and he tried to add those acres to his homestead. The court refused.

[1] Specifically, proposed subsection (n)(1) states:

Except as provided in paragraph (2), as a result of electing under subsection (b)(3)(A) to exempt 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 or personal 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.

Another example:

Talmadge Wayne Tinsley, a Dallas, TX, developer, filed for chapter 7 bankruptcy in 1996 after he incurred $60 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. All that fit snugly 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, to write a $659,000 check to 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 value 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.

That 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 Federal 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 not the sale price of 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, he gets to live in the mansion, is not an advantage for Texas. For years, the Texas legislators, Members of Congress, have believed passionately they should defend this as being a part of their constitution.

I think that is a misunderstanding of the role of Federal bankruptcy law. The goal of a good bankruptcy law is to make sure a person who owes debts pays all he can, liquidates all his assets, is able to keep a reasonable home, and work in the future without having any debts, but that he not be able to abuse the system and defeat creditors who he could legitimately pay.

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 thank the Senator for being a very cooperative member of the Judiciary Committee to help Members move the bill out of committee, particularly on this very issue that he has brought to the floor. He was hoping to bring this up in committee. It would have been very divisive in committee. It probably would have kept Members from getting the bill out of committee. He cooperated fully. I said when he brought it to the floor I would speak for and support his amendment. I am here to do that. But I think it is more important I tell him and his constituents who are interested in bankruptcy reform that he has been very helpful through this process.

One of the most unfair aspects of the bankruptcy code is the ability of very wealthy people to shield large amounts of assets in homesteads. As do many parts of our bankruptcy laws, the homestead exemption has a noble purpose. I don't deny that. That noble purpose is to protect the poorest of the poor from being thrown out into the streets to pay creditors. Everybody is entitled to a roof over their head.

As so many parts of our bankruptcy laws, this noble idea has been perverted by rich scoundrels and well-paid bankruptcy lawyers. Obviously, we need to do something about any part of the law that lets people hide money while paying nothing to their creditors.

We said one of the motivations of this legislation is to make sure that the people who have the ability to pay who go into bankruptcy are not going to get off scot-free. Allowing people to shield assets while paying nothing to their creditors creates perverse incentives for wealthy scoundrels.

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.

The PRESIDING OFFICER. The Senator from Kansas.

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 law as a home in town on 1 acre or in the 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 Hutchison-Brownback amendment and its amendment to what Senator KOHL would do. I will support the Kohl amendment if the Hutchison-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 for them and their desires for what they are putting forward—is to take a right away from States that they have had for over 100 years. Bankruptcy law is in the Federal Constitution, but for over 100 years they have allowed States to set that 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 agricultural 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 eastern 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 also forced to take her mother in for health care reasons. She had to stay with them. This brought on numerous hardships for the family. It forced them into chapter 12 bankruptcy in December 1997. It doesn't sound very glitzy or a high-profile, newspaper-type case at this point.

Under chapter 12, they were not required to sell the homestead and 160 acres because of that homestead provision. These were paid for. They had these paid for. They were entitled to them under Kansas statute and under the Kansas Constitution. If not for this exemption, this family would have been forced to sell everything and would have been forced out onto the street and from their farm for which they worked so hard. The wife's exact words describing the homestead exemption were ''a godsend.''

After an extensive reorganization, they are rebuilding their cattle herd. They are still repaying debts from the bankruptcy according to the reorganization. They have currently applied for a loan from Farm Credit to purchase more cattle and are very optimistic about the future.

That doesn't sound like a case that would make the newspaper.

This is a very practical thing that has happened throughout the history of Kansas that I can cite for you at various times. Typically, when 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 save is 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, and many others, it is a part of them being able to pay their creditors in the future. This isn't about them moving to Florida or to Texas to bilk 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. Their 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, and as 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.

What about 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 particularly, 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 offered 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 the 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 ours. We are taking it away. That is completely contrary to devolution.

No. 2, this is very harmful to family farmers, many of whom have used these homestead provisions during times of bad commodity prices—in 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 these are fraudulent transactions that are 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 it.

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 don't make the newspaper but are just simply trying to make a decent living and they get caught in a bad commodity cycle.

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 of the possibility of doing this, and they worked extra hard to pay their creditors even over and above what was required in bankruptcy law because they felt this is 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 Hutchison amendment has 11 minutes 46 seconds under the control of the Senator from Texas, and Senator KOHL has 7½ minutes.

The Senator from Wisconsin.

Mr. KOHL. Mr. President, I yield 4 minutes to Senator SESSIONS.

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 factory 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—whatever. But the equity simply has to be no more than $100,000. I think that is as generous as we can possibly be. I don't see how we could be more generous than that. Why should a businessman, or any person, be able to have unlimited assets?

Let me make no mistake about it, the Hutchison amendment that is filed today would allow an individual in Texas or Florida to maintain a $50 million mansion and not pay the people they owe just debts to—$50 million in equity that they own and paid into that house, and not pay people they owe. That is the kind of disparity I do not believe we can accept and is what the Bankruptcy Commission has rejected. That is what professors have called a national scandal.

I have been pleased to work on this because I believe we owe it to the working Americans who go through bankruptcy, who will never ever have the possibility of claiming these kinds of great equities and do not live in mansions—I don't see why we need to be providing special protections for the rich in these circumstances. It is time to end this process. It is time for Congress to act.

I yield back my time and yield the floor.

Mr. KOHL. I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to be notified in 5 minutes because I have two other speakers who have asked for time. I know we are running the clock down now.

Let me just refute a couple of the points that have been made. First of all, for over 100 years in this country, States have been able to determine what the homestead exemption would be. In some States a homestead would be valued at $15,000 while in other States it might be $215,000. California and Florida have higher valuations on homesteads. So I think a one-size-fits-all approach is not in anyone's best interests.

The Senator from Alabama, who is my friend, talks about a $50 million mansion. I do not know of anyone who has a $50 million mansion on one acre of land, because the standard in Texas happens to be on the number of acres rather than on valuations. That was put in our Constitution.

This would be overriding our Constitution. It would override the Kansas Constitution. There are other States that believe so strongly in the right of a person to be able to keep a homestead for children or for an elderly person that they do not put in a dollar valuation, they put in an acreage valuation. In Texas, it is one acre. That is for urban homesteads. I think you can talk about a $50 million mansion, but that is not reality here.

What I think we ought to do, when we are making policy that is this important, is say: How much damage are we going to do to people who are trying to restructure their lives in order to get a few people who may abuse the system? We have had GAO studies, we have had all kinds of studies, that have showed that maybe 1 percent of the people are not doing right by the system. But we have taken one important step to stop that abuse, which will apply in this bill if it is passed, and that is that you cannot declare a homestead exemption on a home that is bought within 2 years of declaring bankruptcy.

So the idea is if someone is going to leave all their debts in Florida and move to Alabama to buy a house and claim bankruptcy, there are safeguards against that by requiring that the person live there 2 years before they can declare bankruptcy. So they cannot flee bankruptcy to go buy a homestead and be protected. And, second, the bankruptcy laws today and in the new law always provide for fraud, that you can go after someone who has fraudulently transferred assets. I do think we have fraud addressed in this bill.

We get down, though, to the bottom line. That is, this has been a States rights issue for 132 years. People in Alabama may do it differently from people in Florida. People in Wisconsin may do it differently from the way they do it in Texas. What is wrong with that? What is wrong with people in Idaho having the ability to set their own standards for homestead exemptions? What is wrong with a rural-dominated State having a different standard from an urban-dominated State? This country was formed with the thought that States would have the right to make State laws where they are closest to the people. Only a very few laws are made at the Federal level. I think that is a good standard. I think it is good the Federal Government has allowed the States, for over 132 years, to set homestead exemptions.

I hope we will keep that 132-year precedent. I think it has worked. I would love to support this bill. I want debtors to have to pay the people they owe. I have been in a small business, and I have had people stiff me. I know what it is. I know what it is to have to pay my workers regardless of the fact that I am not being paid by people to whom I have supplied products.

I will not support this bill unless we allow the States the right to have the homestead exemption be set State by State. I want to tighten up the laws. 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 time?

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 particular 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 we have here.

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 the Senator would like 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 GRAMS 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 Members are waiting to vote.

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 country 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 that 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 will most certainly damage our ability to let the States make these determinations.

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

I yield 2 minutes to Senator GRAMS.

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

Mr. GRAMS. 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 fear that in these difficult times for family farmers the homestead cap 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 may 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 $8.7 billion in emergency farm assistance to help 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, but 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 GRASSLEY and Senator HARKIN, and they are supportive and cosponsors 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, Iowa, or Wisconsin, 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 stiffing 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 paper, 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. Neither bill took a step toward closing the loophole that allows 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 the 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 schoolteachers 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 is supportive of reform, declaring that: ''State officials in Austin and Washington should be at least willing to discuss limiting homestead protection. A few well-heeled and clever bankruptcy filers shouldn't be able to mess over a state law designed to protect average Texans. That mocks the state's much-celebrated populist image.''

And the Tampa Tribune echoed these sentiments, complaining that the Senate bill does not go ''far enough toward closing the loophole that allows debtors unlimited homestead exemptions that protect the wealthiest from having to repay a significant portion of 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. I ask unanimous consent 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 cosponsored 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 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 also be 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.

EXHIBIT 1

[From the New York Times, Aug. 13, 1999]

PROTECTING RICH BANKRUPTS

If you are going to go bankrupt in America, the best places to do it are in Florida and Texas. Both states have unlimited homestead exemptions, meaning that bankrupts can protect their homes from creditors no matter how much they are worth.

Now, with the little public debate, Texas is on the verge of making its bankruptcy protections even more generous. Currently a bankrupt person can shelter from creditors a home and no more than one acre of land in an urban area. But a proposed amendment to the Texas Constitution would raise that limit to 10 acres. The limit would remain at 200 acres in rural areas.

Even more generously, the amendment, which has passed the Texas legislature and goes to the voters in November, provides that if you operate your business from your home, the business property is also protected. Advocates say that would protect small family businesses, but it is written so broadly that it could allow a Houston property developer to shelter a huge office building, so long as he lived in an apartment in it.

In Washington, the Senate is expected to consider a bankruptcy reform bill next month. Like a bill that passed the House, it would do nothing to limit the ways that the formerly wealthy have of stiffing creditors, of which the unlimited homestead exemptions is only the best known. But the bill would be a boon to the credit card companies, which have pushed hard to get it enacted. It would help them by making it much harder for bankrupts to get our from under credit card debt. That would primarily affect middle-income and poor people forced into bankruptcy by a job loss or large medical bills.

The bill deserves to be defeated, but if it is to be passed, it should be at least be amended to keep Texas and Florida from providing such blatant protection to once-wealthy deadbeats.

[From the Wisconsin State Journal, Sept. 7, 1999]

BANKRUPTCY BILL NEEDS WORK

If credit card issuers want to protect themselves from deadbeats, let them do it with sound lending practices—not by rigging federal bankruptcy law in their favor. It's time for Congress to stop letting the credit card industry call the shots on legislation to reform federal bankruptcy law.

It's time instead to listen to a couple of guys from Wisconsin: Senator Herb Kohl, sponsor of an amendment to the reform bill that would close an outrageous loophole, and Madison lawyer Brady Williamson, chairman of the National Bankruptcy Review Commission, which spent two years studying the state of bankruptcy.

Unless Congress pays attention to Kohl, Williamson and others who speak up for balance in bankruptcy law, Americans are going to get a law tilted to give the credit card industry carte blanche.

The House already has passed such a proposal, and the Senate is to consider its version this month.

The campaign to reform bankruptcy law is based on evidence showing that the number of people filing for protection from creditors under bankruptcy law has been skyrocketing, despite a strong economy. In 1981 about 300,000 consumers filed petitions for bankruptcy. Last year the total was 1.4 million.

Furthermore, there is evidence that a few people are abusing the law to escape debts while they live it up on wealth protected from creditors' reach.

In response, Congress began work on bankruptcy reform legislation. For guidance, the House and Senate had before them 172 recommendations from the National Bankruptcy Review Commission, led by Madison's Williamson. But the senators and representatives were also heavily influenced by the lobbying of the credit card industry.

The industry's goal was selfish. The banks and retailers that issue credit cards make money when their card holders run up large balances and pay the cards' high interest rates. That's why the card issuers try to put their cards in the hands of as many people as possible, even people who are poor credit risks.

But there's a consequence for credit card issuers: Sometimes people file for bankruptcy protection, and their debts are reduced or discharged.

The credit card industry wants to escape that consequence. Card issuers want to design the law to keep people out of bankruptcy court, so the debts can be collected and, moreover, so the issuers can escape the expense of being careful about whom they issue cards to.

To satisfy the credit industry, the House and Senate included in their bills provisions to make it harder for people to file under Chapter 7 of the bankruptcy law, which basically allows a filer to wipe away debts and start fresh, or harder to file for bankruptcy at all.

By caving in to the credit card industry, the Senate and House violated a principle of bankruptcy law that Williamson of the Bankruptcy Review Commission has championed: Balance. The law must work for creditors and debtors. It should not become a creditors' collection aid.

For including the pet provisions of the credit card industry, the House and Senate bills deserve rebuke. But the bills also deserve criticism for what they fail to include. Neither bill took a step toward closing the loophole that allows the ''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. Wisconsin's homestead exemption is a modest $40,000. But five states—Texas, Florida, Iowa, Kansas and South Dakota—have unlimited exemptions. That's how actor Burt Reynolds, former Major League Baseball Commissioner Bowie Kuhn and others have held on to luxurious homes while leaving millions in unpaid bills.

Sen. Kohl, D–Wis., has offered an amendment to limit homestead exemptions to $100,000. The amendment allows states to offer an exception for family farms.

Kohl's provision is sound. The Senate ought to take its bankruptcy bill back to the drawing board, incorporate the homestead exemption limit and revise other provisions until the result is balanced between the interests of creditors and debtors.

If credit card issuers want to protect themselves, let them do it with sound lending practices, not by rigging the law in their favor.

[From the Austin American-Statesman, July 25, 1999]

HOMESTEAD PROTECTION POPULAR, NOT POPULIST

When it comes to their homesteads, don't mess with Texans.

Texas congressional leaders vigorously oppose federal attempts to limit an unusual state law that prevents debtors from losing the equity in their homes in bankruptcy proceedings.

Texas is one of five states that offers unlimited homestead protection to the bankrupt. The century-old constitutional exemption reflects Texas' historic support of private property rights and its populist past.

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, not the schooteachers 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. A uniform limit, of $100,000, is being proposed in the U.S. Senate. Such a limit would adequately protect all but a tiny percentage of Texas debtors.

Of the approximately 14,000 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. Some debtors who plan to file for bankruptcy preemptively shield assets from seizure by investing in an expensive home.

While even the bankrupt need and deserve a roof over their heads, gross abuses of the bankruptcy system shouldn't be tolerated. Besides the unfairness, overly generous state laws threaten lenders, who then raise lending rates for other consumers.

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 to go by real estate office to buy a $7 million house before they go by the law office to declare bankruptcy,'' he said in an interview with the American-Statesman last week.

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.

The state's homestead protection law has bipartisan support, from Gov. George W. Bush to U.S. Rep. Sheila Jackson Lee, D–Houston.

State officials in Austin and Washington should at least be willing to discuss limiting homestead protection. A few well-heeled and clever bankruptcy filers shouldn't be able to mess 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 individuals and 44,000 businesses have sought protection from creditors in federal bankruptcy courts—more than ever before. The majority of these debtors, faced with medical emergencies or other crisis, had no other choice. Others, however, used the system to escape debts they knowingly built up, costing the average family $550 a year and American companies billions.

That's why it is time to reform the nation's bankruptcy laws and return the concepts of fairness and responsibility to the system. Last year, with elections looming, Congress failed to reach an agreement. This year, however, it looks like Congress will finally act, potentially by a veto-proof margin. The House passed its version of reform in May, and the Senate is scheduled to take up its bill this month. There is bipartisan support among the senators for reform, and 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.

Much has been written and said about who is to blame for this ''bankruptcy crisis.'' Consumer groups blame banks, credit card companies and retailers who tempt borrowers to live beyond their means. Indeed most Americans, whether they can afford credit cards or not, know what it's like to open a mailbox filled with applications guaranteeing lines of credit.

''Credit-card issuers are shameless to lobby for personal bankruptcy restrictions while they aggressively market and extend credit,'' says Stephen Brobeck, the Consumer Federation's executive director.

But access to credit has not been altogether bad. For decades the federal government has encouraged industry to make credit and financial services available to a broader segment of society. As a result, strapped Americans have been able to buy what they need when they need it. It has allowed for emergency purchases and long-term investments. Ultimately it has benefited the American economy.

But the benefits of credit are not free, and that is what Congress has recognized in pushing reform of the bankruptcy system.

Consumers share the blame. Filings are up in part because bankruptcy no longer carries with it a sense of shame, and debtors have failed to act fiscally responsible. Too many of these debtors equate plastic with money-in-hand. They use one credit card to pay off another or play a continuing and sloppy game with balance transfers, all the while watching their debts increase. For them, walking away from their responsibilities is an easy answer.

The parallel bills making their way through Congress would make it harder for debtors to escape scot-free. Both encourage personal responsibility by requiring those who are able to pay their debts to do so. At the same time no suggested changes are so drastic as to crush hard-working debtors who have had a run of bad luck.

The most controversial part of the House bill would block most middle- and upper-income debtors from using the bankruptcy courts to walk away from their debts. Those with annual family incomes above $51,000 who have the resources to pay at least 20 percent of what they owe over five years would be prohibited from wiping the slate clean. This means they would have to restructure their debts under Chapter 13 of the bankruptcy code rather than the more lenient Chapter 7, which erases debts.

Significantly, the bill allows bankruptcy judges to take into account a debtor's account a debtor's ''extraordinary circumstances,'' such as a decline in income or unexpected medical expenses, before making the decision to shift a debtor into Chapter 13.

Nevertheless, opponents say the provision is unfair because the debtor has the burden of proving those circumstances exist. In our view that is not unfair. The debtor is the one receiving the benefit of the bankruptcy.

The Senate bill is less stringent and would give greater discretion in the matter to the bankruptcy judge, who would have to consider a debtor's ability to repay his debts. The Senate's version requires only a showing of ''special circumstances'' for a debtor to avoid a transfer to Chapter 13.

Both bills recognize the obligation of a parent to pay child support. Both make sure a debtor cannot put off collection efforts or delay making child support payments simply by filing for bankruptcy. And child support payments have been made a top priority when determining which debts will be paid first.

Unfortunately, neither bill goes far enough toward closing the loophole that allows debtors unlimited homestead exemptions that protect the wealthiest from having to repay a significant portion of their debt. 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 multi-million-dollar mansions.

But the conference committees threw out the provision and instead said simply 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 the same—requiring at least some repayment by those who have the ability to pay. The differences in the two measures are not beyond compromise, and either approach would be an improvement over current law.

As we said last year, the goal of the bankruptcy system 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 Senator 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 people.

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.

I yield the floor.

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

Mrs. HUTCHISON. How much time is on our side?

The PRESIDING OFFICER. One minute 8 seconds.

Mrs. HUTCHISON. Mr. President, let me make a statement and then I am going to yield the remainder of my time to the cosponsor of the amendment, Senator GRAHAM of Florida.

The GAO report said that 1 percent may be trying to use the bankruptcy laws. Are we going to throw seniors out on the streets? Eighty-one percent of Americans 65 years or older are homeowners. Are we going to throw them out on the streets to try to get one person who is not using the system fairly? I do not think that is good policy.

I yield the remainder of my time to the Senator from Florida.

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Mr. GRAHAM. Mr. President, it has been said that the core issues in politics are: Who wins, who loses, and who decides. Historically, the decision as to the level of exemption of a person's homestead has been set by the States.

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 Hutchison 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.]

YEAS—29

Allard	Gramm	Roberts
Bennett	Grams	Shelby
Brownback	Gregg	Smith (NH)
Bunning	Hagel	Specter
Burns	Helms	Stevens
Campbell	Hutchison	Thomas
Craig	Inhofe	Thompson
Crapo	Lautenberg	Thurmond
Domenici	Mack	Torricelli
Graham	Nickles	

NAYS—69

Abraham	Edwards	Lincoln
Akaka	Enzi	Lott
Ashcroft	Feingold	Lugar
Baucus	Feinstein	McConnell
Bayh	Frist	Mikulski
Biden	Gorton	Moynihan
Bingaman	Grassley	Murkowski
Bond	Harkin	Murray
Boxer	Hatch	Reed
Breaux	Hollings	Reid
Bryan	Hutchinson	Robb
Byrd	Inouye	Rockefeller
Chafee, L.	Jeffords	Roth
Cleland	Johnson	Santorum
Cochran	Kennedy	Sarbanes
Collins	Kerrey	Schumer
Conrad	Kerry	Sessions
Coverdell	Kohl	Smith (OR)
Daschle	Kyl	Snowe
DeWine	Landrieu	Voinovich
Dodd	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—1

McCain

The amendment (No. 2778) was rejected.

Mr. NICKLES. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3516

The PRESIDING OFFICER (Mr. BUNNING). The question is on agreeing to amendment No. 2516. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk 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 76, nays 22, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—76

Abraham	Domenici	Leahy
Akaka	Dorgan	Levin
Ashcroft	Durbin	Lieberman
Baucus	Edwards	Lincoln
Bayh	Enzi	Lott
Biden	Feingold	Lugar
Bingaman	Feinstein	McConnell
Bond	Frist	Mikulski
Boxer	Gorton	Moynihan
Breaux	Grassley	Murkowski
Bryan	Harkin	Murray
Bunning	Hatch	Reed
Burns	Hollings	Reid
Byrd	Hutchinson	Robb
Campbell	Inhofe	Rockefeller
Chafee, L.	Inouye	Roth
Cleland	Jeffords	Santorum
Cochran	Johnson	Sarbanes
Collins	Kennedy	Schumer
Conrad	Kerrey	Sessions
Coverdell	Kerry	Shelby
Daschle	Kohl	Smith (OR)
DeWine	Kyl	Snowe
Dodd	Landrieu	Voinovich
Stevens	Warner	Wellstone
		Wyden

NAYS—22

Allard	Gregg	Smith (NH)
Bennett	Hagel	Specter
Brownback	Helms	Thomas
Craig	Hutchison	Thompson
Crapo	Lautenberg	Thurmond
Graham	Mack	Torricelli
Gramm	Nickles	
Grams	Roberts	

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 was agreed to.

The PRESIDING OFFICER (Mr. SESSIONS). 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 repetitive 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 I now send to the desk, and 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 clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] for himself, Mr. TORRICELLI, and Mr. LEAHY, proposes an amendment numbered 2515, as modified.

The amendment, as modified, is as follows:

On page 6, line 12, insert ''11 or'' after ''chapter''.

On page 6, line 24, insert ''11 or'' after ''chapter''.

On page 12, lines 21 and 22, strike ''was not substantially justified'' and insert ''was frivolous''.

On page 14, strike lines 8 through 14 and insert the following:

''(C)(i) No judge, United States trustee, panel trustee, bankruptcy administrator, or other party in interest shall bring a motion under section 707(b)(2) if the debtor and the debtor's spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national or applicable State median household monthly income calculated (subject to clause (ii)) on a semiannual basis of a household of equal size.

''(ii) For a household of more than 4 individuals, the median income shall be that of a household of 4 individuals, plus $583 for each additional member of that household.''.

On page 14, in the matter between lines 18 and 19, insert ''11 or'' after ''chapter''.

On page 14, after the matter between lines 18 and 19, insert the following:

SEC. 103. FINDINGS AND STUDY.

(a) FINDINGS.—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 their use under section 707(b) of title 11, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Director of 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—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of those standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Secretary of the Treasury under paragraph (1).

On page 14, line 19, strike ''103'' and insert ''104''.

On page 15, line 12, strike ''104'' and insert ''105''.

On page 15, lines 9 and 10, strike ''credit counseling service'' and insert ''nonprofit budget and credit counseling agency''.

On page 17, line 19, strike ''105'' and insert ''106''.

On page 18, lines 3 and 4, strike ''credit counseling service'' and insert ''budget and credit counseling agency''.

On page 18, line 5, insert ''(including a briefing conducted by telephone)'' after ''briefing''.

On page 18, line 12, strike ''credit counseling services'' and insert ''budget and credit counseling agency''.

On page 18, line 12, strike ''are'' and insert ''is''.

On page 18, line 15, strike ''those programs'' and insert ''that agency''.

On page 18, line 21, insert after the period the following: ''Notwithstanding the preceding sentence, a nonprofit budget and credit counseling service may be disapproved by the United States trustee or bankruptcy administrator at any time.''.

On page 19, lines 4 and 5, strike ''credit counseling service'' and insert ''budget and credit counseling agency''.

On page 21, lines 6 and 7, strike ''credit counseling service'' and insert ''approved nonprofit budget and credit counseling agency''.

On page 21, lines 10 and 11, strike ''credit counseling service'' and insert ''approved nonprofit budget and credit counseling agency''.

On page 21, line 16, strike ''**Credit counseling services**'' and insert ''**Nonprofit budget and credit counseling agencies**''.

On page 21, line 19, strike ''credit counseling services'' and insert ''nonprofit budget and credit counseling agencies''.

On page 21, line 25, strike the quotation marks and the final period.

On page 21, after line 25, insert the following:

''(b) For inclusion on the approved list under subsection (a), the United States trustee or bankruptcy administrator shall require the credit counseling service, at a minimum—

''(1) to be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

''(A) are not employed by the agency; and

''(B) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

''(2) if a fee is charged for counseling services, to charge a reasonable fee, and to provide services without regard to ability to pay the fee;

''(3) to provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

''(4) to provide full disclosures to clients, including funding sources, counselor qualifications, and possible impact on credit reports;

''(5) to provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts; and

''(6) to provide trained counselors who receive no commissions or bonuses based on the counseling session outcome.

''(c)(1) In this subsection, the term 'credit counseling service'—

''(A) means—

''(i) a nonprofit credit counseling service approved under subsection (a); and

''(ii) any other consumer education program carried out by—

''(I) a trustee appointed under chapter 13; or

''(II) any other public or private entity or individual; and

''(B) does not include any counseling service provided by the attorney of the debtor or an agent of the debtor.

''(2)(A) No credit counseling service may provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the credit counseling service.

''(B) A credit counseling service that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

''(i) any actual damages sustained by the debtor as a result of the violation; and

''(ii) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.''.

On page 22, strike the matter between lines 3 and 4, and insert the following:

''111. Nonprofit budget and credit counseling agencies; financial management instructional courses.''.

On page 30, line 11, insert '', including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title,'' after ''under this title''.

On page 30, lines 14 and 15, strike ''or legal guardian; or'' and insert '', legal guardian, or responsible relative; or''.

On page 30, line 21, strike ''or legal guardian''.

On page 31, line 10, strike ''or legal guardian'' and insert '', legal guardian, or responsible relative''.

On page 32, line 9, strike all through line 3 on page 33 and insert the following:

''(1) First:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

''(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a government unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.''.

On page 33, line 4, strike all through page 37, line 6 and insert the following:

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.'';

(2) in section 1208(c)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(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 for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.'';

(4) in section 1222(b)—

(A) by redesignating paragraph (10) as paragraph (11); and

(B) by inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;'';

(5) in section 1225(a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that first become payable after the date on which the petition is filed.'';

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';

(7) in section 1307(c)—

(A) in paragraph (9), by striking ''or'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(8) in section 1322(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 in 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 for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid amounts payable after the date on which the petition is filed.''; and

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan''.

On page 37, strike lines 10 and 11 and insert ''amended by striking paragraph (2) and inserting the''.

On page 37, lines 14 and 15, strike ''of an action or proceeding for—'' and insert ''or continuation of a civil action or proceeding—''.

On page 37, line 16, insert ''for'' after ''(i)''.

On page 37, line 19, insert ''for'' after ''(ii)''.

On page 37, line 21, strike ''or''.

On page 37, between lines 21 and 22, insert the following:

''(iii) concerning child custody or visitation;

''(iv) for the dissolution of a marriage except to the extent that such a proceeding seeks to determine the division of property which is property of the estate; or

''(v) regarding domestic violence;

On page 37, line 24, strike the quotation marks and second semicolon.

On page 37, after line 24, add the following:

''(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation pursuant to a judicial or administrative order;

''(D) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16));

''(E) the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

''(F) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)) or under an analogous State law; or

''(G) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).'';

On page 38, line 12, strike all through page 39, line 25.

On page 40, between lines 13 and 14, insert the following:

(i) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind''.

On page 40, line 14, strike ''(i)'' and insert ''(ii)''.

On page 40, line 16, strike ''(ii)'' and insert ''(iii)''.

On page 40, insert between lines 18 and 19 the following:

(C) by striking paragraph (18); and

On page 41, line 4, strike ''(5)'' and insert ''(4)''.

On page 41, line 7, strike ''(5)'' and insert ''(4)''.

On page 41, line 12, strike ''(5)'' and insert ''(4)''.

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 ''or 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 ''or 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,''.

On page 45, line 23, strike ''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 (1)(B)(iii)(IV) the last known address of the debtor.

On page 46, line 19, strike ''(b)'' and insert ''(a)''.

On page 46, line 20, strike ''(5)'' and insert ''(6)''.

On page 46, line 22, strike ''(6)'' and insert ''(7)''.

On page 47, strike lines 1 through 6 and insert the following:

''(8) 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 48, insert between lines 7 and 8 the following:

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

On page 48, line 8, strike ''(III)'' and insert ''(IV)''.

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

On page 48, strike lines 15 through 20 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 (1)(B)(iii)(IV) the last known address of the debtor.

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

''(6) 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 ''and''.

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 (14A)'' and insert ''(3), or (14)''.

On page 50, strike 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 (1)(B)(iii)(IV) the last known 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, provide the applicable notification specified in subsection (d).''; and

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

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

''(III) the last recent known name and address of the debtor's employer; and''.

On page 53, line 1, strike ''(III)'' and insert ''(IV)''.

On page 53, line 4, strike ''(4), or (14A)'' and insert ''(3), or (14)''.

On page 53, strike lines 8 through 12 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 (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 amended by adding at the end the following:''.

On page 82, line 10, strike ''(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 having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

''(7) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000; or''; and

(2) by adding at the end the following:

''(g) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(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 requirements 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 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 that subsection''; and

(2) in the second sentence—

(A) by inserting ''(other than property described in subsection (b)(3)(C))'' after ''property'' each place it appears; and

(B) by inserting ''(other than a transfer of property described in subsection (b)(3)(C))'' after ''transfer'' each place it appears.

On page 91, line 23, strike ''105(d)'' and insert ''106(d)''.

On page 92, line 17, strike ''(C)'' and insert ''(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, line 19, strike ''(4)'' and insert ''(3)''.

On page 112, line 20, strike ''(3)(B), (5), (8), or (9) of section 523(a)'' and insert ''(4), (7), or (8) of section 523(a)''.

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 8, strike ''(f)(1)'' and insert ''(g)(1)''.

On page 118, strike line 23 and insert the following: ''subsection (h)''.

On page 118, line 24, strike ''(g)(1)'' and insert ''(h)(1)''.

On page 119, line 21, strike ''(h)'' and insert ''(*i*)''.

On page 120, line 11, strike ''(*i*)'' and insert ''(j)''.

On page 124, strike lines 7 through 14 and insert the following:

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''§ 1115. Property of the estate

''In a case concerning an individual, property of the estate includes, in addition to the property specified in section 541—

''(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

''(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

''1115. Property of the estate.''.

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) in a case concerning an individual, provide for the payment to creditors through the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.''.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

''(14) In a case concerning an individual in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

''(A) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

''(B) the value of the property to be distributed under the plan is not less than the debtor'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 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: '', except that in a case concerning an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14)''.

(d) EFFECT OF CONFIRMATION—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''The confirmation of a plan does not discharge an individual debtor'' and inserting ''A discharge under this chapter does not discharge a debtor''; and

(2) by adding at the end the following:

''(5) In a case concerning an individual—

''(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payment 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) MODIFICATION OF PLAN.—Section 1127 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, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

''(1) increase or reduce the amount of payments on claims of 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 the plan only after there has been disclosure under section 1125, as the court may direct, notice and a hearing, and such modification is approved.''.

Beginning on page 135, strike line 19 and all that follows through page 136, line 2, and insert the following:

SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: ''On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1))), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.''.

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) A committee appointed under subsection (a) shall—

''(A) provide access to information for creditors who—

''(i) hold claims of the kind represented by that committee; and

''(ii) are not appointed to the committee;

''(B) solicit and receive comments from the creditors described in subparagraph (A); and

''(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).''.

On page 145, between lines 15 and 16, insert the following:

SEC. 420. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for the United States Trustees, shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

On page 147, line 15, strike ''title)'' and insert ''title and excluding a person whose primary activity is the business of owning and operating real property and activities incidental thereto)''.

On page 150, line 14, insert ''and other required government filings'' after ''returns''.

On page 150, line 19, insert ''and other required government filings'' after ''returns''.

On page 152, strike lines 19 through 21 and insert the following:

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of title 11, United States Code, as amended by section 321 of this Act, is amended by adding at the end the following:

On page 153, line 1, strike ''1115'' and insert ''1116''.

On page 153, line 7, strike ''3'' and insert ''7''.

On page 154, line 9, strike the semicolon and insert ''and other required government filings; and''.

On page 154, strike lines 14 through 25.

On page 155, strike line 7 and all that follows through the matter between lines 9 and 10 and insert the following:

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

''1116. Duties of trustee or debtor in possession in small business cases.

On page 156, line 19, strike ''150'' and insert ''175''.

On page 156, line 20, strike ''150-day'' and insert ''175-day''.

On page 162, strike lines 14 through 20 and insert the following:

''(A) a plan with a reasonable possibility of being confirmed will be filed within a reasonable period of time; and

On page 162, line 21, strike ''reason is'' and insert ''grounds include''.

On page 162, line 22, strike ''that''.

On page 162, line 23, insert ''for which'' before ''there exists''.

On page 163, line 1, strike ''(ii)(I)'' and insert ''(ii)''.

On page 163, line 1, strike ''that act or omission'' and insert ''which''.

On page 163, line 3, strike '', but not'' and all that follows through line 8 and insert a period.

On page 163, line 22, insert after ''failure to maintain appropriate insurance'' the following: ''that poses a risk to the estate or to the public''.

On page 164, line 3, insert ''repeated'' before ''failure''.

On page 165, line 2, strike ''and''.

On page 165, line 3, insert ''confirmed'' before ''plan''.

On page 165, line 4, strike the period and insert ''; and''.

On page 165, between lines 4 and 5, insert the following:

''(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

On page 165, line 23, insert ''or an examiner'' after ''trustee''.

On page 167, after line 21, insert the following:

SEC. 435. TECHNICAL CORRECTION.

Section 365(b)(2)(D) of title 11, United States Code, is amended by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision''.

On page 183, line 20, strike all through line 13 on page 187.

On page 187, line 14, strike ''703'' and insert ''702''.

On page 187, line 20, strike ''704'' and insert ''703''.

On page 189, line 9, strike ''705'' and insert ''704''.

On page 190, line 13, strike ''706'' and insert ''705''.

On page 190, line 17, strike ''707'' and insert ''706''.

On page 190, line 22, strike ''708'' and insert ''707''.

On page 191, line 8, strike ''709'' and insert ''708''.

On page 192, line 3, strike ''710'' and insert ''709''.

On page 193, line 13, strike ''711'' and insert ''710''.

On page 193, line 21, strike ''712'' and insert ''711''.

On page 196, line 1, strike ''713'' and insert ''712''.

On page 196, line 11, strike ''714'' and insert ''713''.

On page 197, line 12, strike ''715'' and insert ''714''.

On page 197, line 15, strike ''703'' and insert ''702''.

On page 197, line 18, strike ''716'' and insert ''715''.

On page 201, line 3, insert a semicolon after ''following''.

On page 202, line 4, strike ''717'' and insert ''716''.

On page 202, line 18, strike ''718'' and insert ''717''.

On page 248, line 15, strike ''718'' and insert ''717''.

On page 266, line 13, insert ''and family fishermen'' after ''farmers''.

On page 268, insert between lines 16 and 17 the following:

SEC. 1005. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' includes—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products; and

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);'';

''(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;'';

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquiculture for purposes of chapter 12)—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(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 noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;''; and

(3) 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 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family 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 treated in the same manner 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 treated in the same manner as a creditor with respect to the operation of a stay under this section.'';

(3) in section 1203, by inserting ''or commercial fishing operation'' after ''farm'';

(4) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)''; and

(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 any 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 subject 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 a debt of a family fisherman incurred on or after the date of enactment of this chapter.

''(b) A lien described in this subsection is—

''(1) a maritime lien under subchapter III of chapter 313 of title 46, United States Code, without regard to whether that lien is recorded under section 31343 of title 46, United States Code; or

''(2) a lien under applicable State law (or the law of a political subdivision thereof).

''(c) Subsection (a) shall not apply to—

''(1) a claim made by a member of a crew or a seaman including a claim made for—

''(A) wages, maintenance, or cure; or

''(B) personal injury; or

''(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46, United States Code.

''(d) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.''.

(d) CLERICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 12 of title 11, United States Code, is amended by adding at the end the following new item:

''1232. Additional provisions relating to family fishermen.''.

On page 277, line 22, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 281, line 21, strike ''714'' and insert ''713''.

Beginning on page 292, strike line 10 and all that follows through page 294, line 11.

On page 294, insert between lines 11 and 12 the following:

(d) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) Except as provided in subsection (d) of this section, and except as provided in subsection (c) of section 507, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of the business of the seller, to reclaim such goods if the debtor has received such goods within 45 days prior to the commencement of a case under this title, but such seller may not reclaim any such goods unless the seller demands in writing the reclamation of such goods—

''(A) before 45 days after the date of receipt of such goods by the debtor; or

''(B) if such 45-day period expires after the commencement of the case, before 20 days after the date of commencement of the case.

''(2) Notwithstanding the failure of the seller to provide notice in a manner consistent with this subsection, the seller shall be entitled to assert the rights established in section 503(b)(7) of this title.''.

(e) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) the invoice price of any goods received by the debtor within 20 days of the date of filing of a case under this title where the goods have been sold to the debtor in the ordinary course of such seller's business.''.

On page 147, line 19 strike ''4,000,000'' and insert ''3,000,000''.

The PRESIDING OFFICER. Without objection, the amendment is agreed to and the motion to reconsider is laid upon the table.

The amendment (No. 2515), as modified, was agreed to.

Mr. REED. Mr. President, I rise in strong support of the Reed-Sessions amendment to the manager's amendment to S. 625, the bankruptcy reform legislation we have been considering over the past few days. I urge my colleagues to support the passage of this important amendment.

The Reed-Sessions amendment deals with the reaffirmation of one's debt, and it reflects a compromise that has been worked out at length between myself, Senator SESSIONS, the Treasury Department and consumers. I believe it is a fair and balanced amendment that seeks to treat those who enter into reaffirmation agreements with their creditors in a fair and just manner, and to provide them—as well as the bankruptcy courts—with the greatest amount of information they need in order to make the wisest decisions possible.

For those of my colleagues unfamiliar with these agreements, a reaffirmation is an agreement between a debtor and a creditor in which the debtor reaffirms his or her debt and willingness to pay the creditor back, even after many of the other debts may have been discharged during bankruptcy. The creditor must then file this reaffirmation agreement with the bankruptcy court. The court then has the opportunity to review this agreement, but in most cases, for one reason or another, does not.

Recently, there have been some documented cases in which creditors have used coercive and abusive tactics with consumers in order to persuade them to reaffirm their debt, when in many of these cases there is no question that the individual can in no way afford to do so. The most visible of these cases occurred with Sears, in which the company did not even file these reaffirmation agreements with the court, therefore negating even the option of the court to review these cases.

The Reed-Sessions amendment would essentially provide for clear and concise disclosures when a debtor chooses to enter into a reaffirmation agreement with a creditor. Our amendment would create a uniform disclosure form, whereby everyone who is filing a

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, I think it's 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.

The PRESIDING OFFICER. Without objection, the Senator from Minnesota yields to the Senator from Missouri for 7 minutes.

Mr. WYDEN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I would like to ask unanimous consent to speak for up to 5 minutes after the Senator from Missouri has spoken.

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 up and to get this debated.

The PRESIDING OFFICER. Objection is heard.

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—and he has spoken to 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 WELLSTONE, who has been waiting all week to offer his amendment, would get the floor to which he is now entitled.

The PRESIDING OFFICER. At the present time, there is a unanimous consent agreement for the Senator from Missouri to speak for 7 minutes.

Mr. REID. Objection. I object, and I do so, Mr. President, on the basis of——

The PRESIDING OFFICER. That was already agreed to.

Mr. REID. No, it wasn't.

The PRESIDING OFFICER. I am afraid it was. Senator ASHCROFT has 7 minutes.

Mr. REID. OK, the Senator from Missouri.

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

The PRESIDING OFFICER. There has not been an agreement to that effect. The Chair will entertain one.

Mr. WELLSTONE. I would object. The only thing I agreed to is Senator ASCHROFT being allowed to speak for 7 minutes; then I retain the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Missouri is recognized for 7 minutes.

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 the time, Members pass bills by unanimous consent that are noncontroversial. 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 and the Red River systems. 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 it hurts other 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 clear 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 object. As a result of our objections, the sponsor of the bill is holding up 51 other unrelated 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 levels along the Missouri River in order to maintain the recreational opportunities for local communities, as well as hatcheries for fish and flyways for migratory birds.

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 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 undertaken 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 send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from 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.623) 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, one letter from 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 forever, you can move some of 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 to prevent 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 impounded 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 at the conclusion or the yielding 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 over 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 proponent 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. Does 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 when I 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 graces 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 transpire 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 some 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 WELLSTONE 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 here 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 to 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. WELLSTONE. 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 leave to get 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. If there is an opportunity, I believe it will pass. Senator JEFFORDS and I are cosponsors of the amendment. I, again, would like an opportunity to offer it before there is a cloture motion or something and there will be no more amendments on the bill.

Mr. REID. I say to my friend 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 Wellstone amendment. We don't know. There is no problem having the amendment as one of the next ones to come up—whenever that will be, this year or next year—on this bill.

Mr. GRASSLEY. Mr. President, if the Senator will yield.

Mrs. FEINSTEIN. I certainly will.

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

Mr. WYDEN. Will the Senator from Minnesota yield?

Mr. WELLSTONE. First, I say to the Senator from Iowa, I hope we can work it out so Senators 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 this bill. No. 2, 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 request go through.

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——

Mr. REID. She already offered it.

Mr. GRASSLEY. Then the answer is yes.

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

Mr. WELLSTONE. 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. I don't know what will happen. Procedurally, a lot of amendments may not go forward.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I still 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.

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

Mr. CONRAD. Mr. President, reserving the right to object, I thought this was part of the agreement. It is unclear to the Senator from North Dakota what the agreement was. My understanding was I would be recognized after this agreement was reached for the purpose of responding to the statements that have already been made on the floor. I was assured that was part of that agreement.

The PRESIDING OFFICER. The agreement provides 5 minutes for the Senator from North Dakota.

Mr. CONRAD. I would like to have that 5 minutes at this time, Mr. President.

The PRESIDING OFFICER. The request is that the Senator from Oregon be recognized for 3 minutes. Is there objection?

Without objection, it is so ordered.

The Senator from Oregon.

SECRET HOLDS

Mr. WYDEN. Mr. President, and colleagues, this is the time of the legislative session when too many important bills and nominations are killed in secret through a process known as the secret hold. This session of the Senate was supposed to be different as a result of an agreement between the majority and the minority leaders. I am going to read from that agreement. On 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 concern. Further written notification should be provided to respective leaders stating their intentions regarding their bill or nomination. Holds placed on items by a 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. It is untrue. We are not making any claim on anybody's water but our own.

Under the current law, North Dakota has a right to water flowing through the Missouri River. That is in the law today. In the law today there is authorized a very large water project for North Dakota called the Garrison Diversion Project. The reason it is authorized is because North Dakota accepted the permanent flood of 550,000 acres of the richest farmland in North Dakota—permanently inundated to provide flood protection to 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 and towns that desperately need it.

The assertion has been made that this would somehow deplete the water going to Missouri.

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 recognized 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 translates into: A reduction of one half an inch, the water level of the Missouri River in the State of Missouri. We are prepared to assure them they don't even lose that half an inch. This is in response to the documented need for water that is so desperately required in my State. We have people who are turning on their tap right now in North Dakota and what comes out looks filthy. It looks filthy because it is filthy.

North Dakota was made a promise that, if you accept the permanent flood to provide flood protection for downstream States, we will compensate you 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 Project.

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

BANKRUPTCY REFORM ACT OF 1999—Continued

AMENDMENT NO. 2532, 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. As most 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 at a significant disadvantage with respect to meeting the basic necessities in their lives.

This morning's Washington Post made the case abundantly clear in the lead editorial. It said that the Congress should make sure that in the name of financial responsibility it does not unduly squeeze people who, because of job loss, family breakup, medical bills, et cetera, can't help themselves. These are the people affected by this amendment Senator LANDRIEU and I have offered and on which we will ask for your votes shortly.

Children and families are the most vulnerable. The median income of a person who files for bankruptcy is around $17,000 a year; for a woman filing for bankruptcy, that number is a lot lower than $17,000 a year.

Unfortunately, this bill does not appear to treat these people as we have for almost 100 years. Since the first bankruptcy law was passed in 1903, women and children came first in the line of distributable assets in bankruptcy. They are going to be protected no matter what other tragedy has befallen. No matter what other rights creditors may have, they will not be allowed to disadvantage innocent children and women who have to depend upon some income in order to provide for their families. Unfortunately, this bill leaves gaping holes in this area.

The amendment we have offered has been endorsed by 180 organizations, every imaginable family organization in this country. It does the following four things:

First, we say creditors can't seize or threaten to seize bona fide household goods, such as books, games, microwave ovens, and toys. As written today, S. 625 provides no protection against repossession of operations of business, coming into a home and removing such items from a family. Needless to say, that would be an unsettling, intimidating occurrence for families and children. I don't think this body wants to go on record ratifying these kinds of scare tactics. I appreciate Senator GRASSLEY's support for this provision.

Second, we say if people in bankruptcy are put on a budget and they cannot repay some of their debts, it ought to be a realistic budget. The bill puts them on a budget based on IRS guidelines for people who owe back taxes. Unfortunately, those guidelines ignore obligations such as child care, school supplies, and church tithes. We say the bankruptcy judge ought to be allowed to at least consider these kinds of valid, often necessary expenses when it comes to family needs.

Third, we say money for kids should go to kids, not creditors. We mean that funds a parent receives for the benefit of children—like child support payments or earned income tax refunds—should not be divvied up among creditors. They ought to be reserved for the children.

I want the manager of the bill to have a chance to make his argument against the amendment, and then I will respond.

The PRESIDING OFFICER. The Senator from Iowa.

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 people 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 is, frankly, 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 amendment accepted. But his amendment does much 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 nondischargeable. 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)

Total gross monthly income	Number of persons				
	One	Two	Three	Four	Over four
Less than $830	345	466	579	726	+125
$831 to $1,249	391	525	646	762	+135
$1,250 to $1,669	433	630	737	800	+145
$1,670 to $2,499	527	685	781	830	+155
$2,500 to $3,329	554	769	863	924	+165
$3,330 to $4,169	620	830	948	1,063	+175
$4,170 to $5,829	773	957	1,018	1,170	+185
$5,830 and over	991	1,235	1,399	1,473	+195

MONTHLY NATIONAL STANDARDS

Item	Gross Monthly Income							
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,499	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829	$5,830 and over
One Person:								
Food	170	198	214	257	270	325	428	456
Housekeeping supplies	18	20	21	26	27	29	35	43
Apparel & services	43	52	75	120	127	129	168	334
Personal care products & services	14	21	23	24	30	37	42	58
Miscellaneous	100	100	100	100	100	100	100	100
Total	345	391	433	527	554	620	773	991
Two Persons:								
Food	228	227	351	365	424	438	515	635
Housekeeping supplies	23	27	28	40	46	51	57	74
Apparel & services	71	72	98	121	128	167	202	335
Personal care products & services	18	24	28	34	46	49	58	66
Miscellaneous	125	125	125	125	125	125	125	125

MONTHLY NATIONAL STANDARDS—Continued

Item	Gross Monthly Income							
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,499	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829	$5,830 and over
Total	466	525	630	665	769	830	957	1,235
Three Persons:								
Food	272	326	390	406	444	488	545	
Housekeeping supplies	24	28	29	41	47	55	58	
Apparel & services	110	114	134	143	175	205	206	
Personal care products & services	23	28	34	41	47	50	59	
Miscellaneous	150	150	150	150	150	150	150	
Total	579	646	737	781	863	948	1,018	
Four Persons:								
Food	374	376	406	416	472	574	629	
Housekeeping supplies	36	37	38	46	49	57	60	
Apparel & services	114	145	146	147	179	206	244	
Personal care products & services	27	29	35	46	49	51	62	
Miscellaneous	175	175	175	175	175	175	175	
Total	726	762	800	830	924	1,063	1,170	
More Than Four Persons: For each additional person, add to four-person total allowance	125	135	145	155	165	175	185	

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. 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 would be a travesty, 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, do not allow this to happen. This would really be a major setback. Since 1903, 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 Senator 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 for families over current bankruptcy law. I described in considerable detail last week the particular provisions in the bankruptcy bill 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 a year. This windfall to the debtor is passed on the hardworking families that end up subsidizing the cost of bankruptcies of others.

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 point 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 the amendment.

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 legislative assistant called the roll.

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

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Pennsylvania (Mr. SANTORUM) are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER) is necessarily absent.

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

[Rollcall Vote No. 365 Leg.]

YEAS—45

Akaka	Conrad	Harkin
Baucus	Daschle	Hollings
Bayh	Dodd	Inouye
Bingaman	Dorgan	Jeffords
Breaux	Durbin	Johnson
Brownback	Edwards	Kennedy
Bryan	Feingold	Kerrey
Byrd	Feinstein	Kerry
Cleland	Graham	Kohl
Landrieu	Mikulski	Sarbanes
Lautenberg	Moynihan	Schumer
Leahy	Murray	Torricelli
Levin	Reed	Voinovich
Lieberman	Reid	Wellstone
Lincoln	Rockefeller	Wyden

NAYS—51

Abraham	Enzi	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Robb
Biden	Grams	Roberts
Bond	Grassley	Roth
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Chafee, L.	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Warner

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—3

Boxer	McCain	Santorum

The amendment (No. 2532) was rejected.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2752

Mr. WELLSTONE. Mr. President, could I have order in the Chamber?

Mr. President, we are now dealing with amendment 2752. Is that correct?

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 townships, the biggest topic of conversation is the economic farm crisis.

There are fewer and fewer folks attending to 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.

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

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their conversations elsewhere.

Mr. WELLSTONE. 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 was 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.

Reuban Schwieters—as I said, Reuban 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 at 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 does 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 Nathe 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 Feldewerd sold his farm and is also driving a truck. Mike Ellering recently sold his farm and is working construction. Danny Frieler 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 only a mile from a 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 ''why'' 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 jobs. 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 I 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. Gone.

Since 1996, the elementary school closed. The school closing affected the local businesses. The school also has been used for community events. Schoolchildren, 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 hog or 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 closing the True 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 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, Senators have 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 our family farmers and producers 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 our rural 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 that are being used now. 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 with too little self-esteem.

Mr. LOTT. Will the Senator yield?

Mr. WELLSTONE. I am happy to yield to the majority leader.

Mr. LOTT. Mr. President, 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 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 possibly complete action on any number of items arriving from the House of Representatives relative to the appropriations process 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 two Houses of Congress. 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 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 on 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 we agreed to 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 on the executive 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's 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 nominations and will support cloture if necessary.

Mr. DASCHLE. I thank the majority leader.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, tonight I speak, Wednesday I speak, and Wednesday we debate a crisis that is

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 and anticompetitive 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, it 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 have increased their market share from 40 percent to 62 percent. The market share of the top four soybean crushers has jumped from 54 percent to 80 percent.

The top four turkey processors 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 sheep, poultry, wet corn, and dry corn processors 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 operators.

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 not able 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. Again, 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, these large conglomerates with $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, then this moratorium is no longer operative.

Built into this amendment I introduced with Senator DORGAN and other colleagues is the opportunity, if you will, the waiver that any business can file with the Justice Department, where a business can say: We have to merge or we have to buy because we are facing financial insolvency. We allow for that. But we have to pass this kind of amendment now because over and over again, every single day, we are seeing these acquisitions and mergers; more and more concentrated power, more and more concentrated power which is harmful to our producers and harmful to our consumers and harmful to America.

On present course, we are going to see a few large conglomerates that are going to control every phase of the food industry from the seed to the supermarket or grocery shelf. We are going to have a few landowners. Somebody is going to own the land and somebody is going to own the animals, but it is going to be just a few conglomerates.

That is dangerous for our country. Thomas Jefferson told us it was dangerous; Andrew Jackson told us it was dangerous; Abraham Lincoln told us it was dangerous; Teddy Roosevelt, later on, told us it was dangerous. Why are we not, in the Senate and House of Representatives, willing to pass some legislation which will promote competition, which will protect consumers, and which will give our farmers and our producers who are going under some leverage in the marketplace? This legislation is also important to the environment, to our rural communities, and to democracy.

Just yesterday the Wall Street Journal reported that Novartis and Monsanto, two of the biggest agribusiness giants, may be merging. The Wall Street Journal accurately states:

The industry landscape seems to be changing every day.

In fact, the ground is constantly shifting beneath our feet and it soon may be too late to do anything about it. That is why we need a time out. That is exactly what this amendment calls for.

Too many corporate agribusinesses are growing fat and too many farmers are facing extinction and very lean times. Clearly, we cannot count on the current antitrust statutes and antitrust authorities to address this rapid consolidation. We are going to have to do better. We are going to have to change our laws to enable someone like Joel Klein, who is so skillful and so gifted, to be representing family farmers. Whether or not our antitrust agencies have the authority, we need to move forward. We have to develop a new farm policy and we know it is going to take some time. But we do not have much time left.

The question for Senators is, Whose side are we on? Whose side are we on? Are we on the side of the packers and the grain companies, or are we on the side of family farmers? I mean this. I mean this very sincerely. I know, because I have heard from other Senators, that you have a lot of these big companies and they are sending in faxes and letters and they are lobbying hard.

But aren't we going to be for the producers? Aren't we going to be for the family farmers in our States? For Senators who are not from the farm States, who do you want to control agriculture? Isn't food a precious item? Should we not give these producers a fair shot? Wouldn't it be better for the environment to have family farmers? Wouldn't it be better for our rural communities? Wouldn't it enable us to continue to count on being able to purchase food at a reasonable price? Why in the world would we want to move to a corporatized, industrialized agriculture, where a few conglomerates control the whole food industry?

That is not competition. That is not Adam Smith's invisible hand. That is not the United States of America. I offer this amendment tonight with my colleagues. We will have the debate again next week, and then we will have the vote because we need to take some action.

We have to act now, otherwise there are going to be more mergers and it is going to be too late, and we are going to lose, as I said earlier, a whole generation of family farms.

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.

Some of these letters say: But if you want to sell your farm, then you can't sell your farm.

This does not apply to farms, it applies to these agribusinesses.

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 at you to see whether or not you are 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 to 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—let us have at least a moratorium on these mergers of these large conglomerates. Let's at least step back for 18 months, set up a commission, study this, and come up with legislation that will provide some protection for family farmers so they can get a decent price in the marketplace. If we pass that legislation in January or February, then this moratorium is no longer operative.

I come from a remarkable State. I want to quote a remarkable Minnesotan, Ignatius Donnelly. I want to quote from a speech he gave at the People's Party Convention in 1892. It reads as if it could have been written yesterday. He was an implacable foe of monopoly power. Donnelly in his speech affirmed that the interests of rural and urban labor are the same. He called for a return to America's egalitarian principles. He said:

> We seek to restore the Government of the Republic to the hands of the plain people with whom it originated.

We should do no less. If we want to sustain a vibrant rural economy and a thriving democracy, we need urgently to reform our farm and antitrust laws, and we have to act now. Time is not neutral. Time rushes on, and if we are not willing to take this action next week, time will leave many farmers behind. Now is the time to act.

Next week, I will read from letters of support from any number of different farm organizations, and I will start out with the Farmers Union, which has been so helpful in this whole effort. I especially thank Tom Buis for all of his policy work.

This may be the final vote of this session this year. This vote will be very telling for Senators who value a family farm structure of agriculture, for Senators who have seen the anguish of farmers in our rural communities, and for Senators who have seen in personal terms what record low farm prices and record low farm income means. It is important to come to the floor and fight for people.

Tonight is the first speech. Wednesday we come back with 1 hour more of debate. Between now and Wednesday, 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 that 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 the players and 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 at that 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 bit 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 then the Stockyard Act of 1921 or 1922. This 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.

The PRESIDING OFFICER (Mr. ALLARD). The Senator has 55 minutes.

Mr. WELLSTONE. Mr. President, I yield the rest of the time I have 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.

The PRESIDING OFFICER. The Senator from Oregon.

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 because, 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 talking about a cooperative 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 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 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.

I look at the Food Quality Protection Act being administered by the Environmental Protection Agency. While I support the Food Quality Protection Act, I have been one who has pled with this administration to employ good science as they review chemical tolerances. As they take away the pesticides, the herbicides that these farmers have depended upon—which have greatly contributed to their ability to be good

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.

Many of us have 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 we had to send 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 said about those of us 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. 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 issue.

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? The other two-thirds grow 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 farm cooperatives buy stock companies. To me, this is just patently 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 because I have voted for 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 backhanded 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, has one option because they can't sell. They can't merge. They could go bankrupt. So what have you done to help the two-thirds of the farmers in this country, if you put their outlet of production in that kind of jeopardy?

This amendment is a shotgun blast at the marketplace. I plead with my colleagues, I appeal to their commitment to free enterprise not to interfere in the marketplace in this way. This does not work. This is not fair. This is not the American way.

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 hundreds and thousands of food 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 profit that they guaranteed by the contract. So we are 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 amendment being brought forward by the Senator from Minnesota. While I recognize the concern among farmers in his state and mine over agribusiness concentration, I believe we would be making a profound mistake if we were to respond to the current situation 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 including 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 dominant industry in 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 regulatory 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 witness to an Administration that has not been particularly friendly towards the interests of rural communities by continuously 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 billions of taxpayer dollars in assistance to help tide farmers over during these lean years—another $8.7 billion was sent out to farm country this fall. I have voted for these assistance packages knowing that they are short-term

fixes and that much work remains to be done to improve the long-term outlook. Part of this is improving the demand side of the equation through the expansion of trade opportunities. I have been very supportive of unilateral sanctions reform, tearing down agriculture trade barriers through the WTO, and full funding for the promotion of American commodities overseas utilizing the Market Access Program. These efforts are all vital to induce a rebound in world demand, and, eventually, a rebound for our farmer's prices here at home. An equally important part of the equation is to reduce costs of production for farmers that come in the form of excessive federally-mandated regulations. I have worked hard to overhaul the currently impractical H2A guest worker program and free farmers from INS and Social Security Administration intimidation by giving them a legal workforce. I have consistently pushed for a science-based implementation of the Food Quality Protection Act, and an even-handed review of pesticide tolerances. I believe that continued work to open market opportunities for farmers while fulfilling our promises to ease regulatory burdens—in other words keeping the Congress' promises under the Freedom to Farm bill—will be necessary in order to get the farm economy back on track.

With that said, I am also aware that many farmers in my state and around the country have reservations about the pace of change and consolidation underway in certain agriculture sectors. The meat packing and grain processing industries have seen a number of headline-grabbing mergers and acquisitions in recent years. Critics of these mergers often cite the 3% rise in consumer food prices that has come over the last 15 years while the farmer's percentage of the food dollar has simultaneously dropped 36%. Others note the high profits attained by large agribusinesses at a time when many farmers continue to suffer from historically low commodity prices. Certainly, the pace of the concentration and how it affects the bargaining power of average producers and the overall future of family farming warrant careful review by appropriate federal agencies and continued study by the Congress. I note that this issue of concentration and competitiveness in agriculture was the subject of a recent hearing in the House Judiciary Committee just a few weeks ago. In addition, Chairman HATCH just announced last week that his Judiciary Committee will be looking into this issue in a comprehensive way early next year. I also want to point out that we in the Congress, largely in response to concerns about the competitiveness within the meat packing industry, just passed a provision to the FY 2000 Agriculture Appropriations bill that requires mandatory price reporting for meat packers. So I want farmers to know that the issue of agribusinesses concentration has not gone unnoticed by the Congress.

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 agriculture brokers, commission merchants, commodity dealers, agricultural suppliers such as seed and chemical producers, and food processors. This 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 federal 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 mergers 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 in the world. What kind of message 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 proponents of 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 agriculture sector.

We all know that revolutionary innovations have developed in technology, marketing, and food production and processing over the last one hundred years. Our country has shifted from an agrarian economy to an industrial economy to an information technology and service economy. Today American agriculture has become 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 with the times as well; 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.

It is 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 values 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 find it in their best interest to merge or why one company agrees to be acquired by another. Certainly, any of my colleagues that have experience in the business world understand that there are occasions when businesses, searching for the greatest efficiencies and competitive advantage, find the 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 businesses in severe financial distress to request a waiver from Janet Reno, but that option strikes me as especially bureaucratic and time-consuming.

Despite their portrayal as the oppressor 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 food processing and support businesses, it is not an uncommon threshold to surpass. Many of these business-owners and entrepreneurs are depending on their businesses to serve as their nest egg for retirement. The Wellstone proposal would prevent an unknown number of families in these circumstances from selling their business to whom they pleased.

Even worse, the Wellstone proposal only applies to certain agribusinesses—it specifically exempts agriculture cooperatives. Many co-ops are large agribusinesses in their own right that have also acquired smaller companies in recent years. Yet, under the Wellstone

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 has failed to uphold our federal antitrust laws. However, that has not been the case. In the case that set off much of the concern in the first place, the Cargill-Continental Grain acquisition, the Department of Justice allowed the deal to go through 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 were 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 merger proposals, and looking fairly carefully at what impacts they may have in the market, and enforcing federal antitrust law. Coming on the heals 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 to solve any flaws that may exist with our current antitrust laws. Those solutions must be developed with the scrutiny and public hearings of the Judiciary and Agriculture Committees. Do we want to set a precedent today by placing this kind of moratorium on business activity for one particular industry and treat them differently than all other businesses? Do we want to take a sweeping and unprecedented step of pushing a merger moratorium on an unknown number of businesses that play key roles in our food chain? I hope my colleagues will agree with me that the correct answer to both questions is no and that the prudent step to take here is to accept Chairman HATCH's offer to have comprehensive hearings on the matter early next year and take subsequent appropriate action in a way that is fair to our farmers, our businesspeople, and our consumers, alike. I urge my colleagues to join me in opposition to the Wellstone amendment.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, the face of American agriculture is being changed dramatically by the quickening pace of mergers, buyouts, takeovers and vertical integration. Over the years, farm families have survived bad weather and ups and downs in the markets. They have adapted to new technologies, new ways of buying production inputs and new ways of marketing what they produce.

But today farm families are being hit by a tidal wave of economic concentration and consolidation that is threatening their survival in a way that is unlike anything in the past. The pace of consolidation is being driven even faster by the disastrously low commodity prices of the past couple of years. These are deeply troubling times for anyone concerned about the future of the family farm—and we are quickly running out of time to turn things around.

Senator WELLSTONE's amendment, of which I am a cosponsor, is vitally necessary because I believe that we need a time-out from the headlong rush towards ever greater economic concentration and consolidation 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 transforming American agriculture from a system of independent family farms to one based on the corporate industrial model. Ever greater economic concentration in the food and agricultural sector affects not only farm families 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, nobody beats the independent family farm. 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 why 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. 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 so that they can charge the consumers what they want to 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 us to the brink of ruination. 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 been the most active in the 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 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 and after court decisions that I believe have interpreted these laws in ways that are inimical to the best interests of family farms, this amendment will put a brake on the category of large agribusiness mergers and acquisitions for a period of time, 18 months, so we can have a careful review of economic concentration in agriculture and of what need we have for changes in the law to ensure a fair and competitive marketplace in agriculture.

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. Presdient, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. 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 the distinguished senior Senator 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, take a close look, 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 undermine the very tenets of free enterprise by continuing to look the other way when these mergers are announced? 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 market, that there is something illegal going on in the market; but I am prepared to say today that what is happening in the market is not healthy for agriculture. What is happening in the market goes the wrong way from competition. What is happening in the market today precludes real opportunities for producers to be able to ensure a fair price, a real opportunity in the marketplace, a real sense of competition.

I was just told again last week that in many places in South Dakota, a buyer will tell you that he will be in a location for one day for as little as one-half hour, and if you want to be able to sell your cattle to that buyer, you have to be there in that half hour's time, on that appointed day, or you don't sell cattle that week. I don't know how that is competition. I don't know how we can say today this is the free enterprise system that we all defend and espouse. What is free enterprise when you have one buyer and all these producers lined up to sell, almost supplicating themselves to that buyer? That isn't free enterprise. That isn't what we say agriculture is supposed to be. Most important, that isn't ever going to allow us the confidence that we need as we look to the future and encourage young people and encourage rural people to stay where they are. They need more confidence and more assurances than what we are giving them today.

So this amendment is really pretty simple. It just says, let's take a deep breath, let's not do anymore until we have had a chance to analyze whether or not our fears are being realized, whether or not we really have any legitimate basis for concern, whether or not the situation is going from bad to worse. That is all we are saying. Once it happens, it can never be undone. I doubt very much that we will ever go back and say, OK, we are going to break up these companies, because that is the only way it is going to assure that we have the kind of competitive environment that we need. I don't think that is in the offing in the short term. So while we still have a chance to put everything on hold, to analyze whether or not this is good, why not simply say, let's take a deep breath.

I personally don't believe that we ought to be content with just this. I really worry about whether or not vertical integration in agriculture ultimately is going to destroy the young family farmer, or the livestock producer. Once you have the processor in charge of every step from to table, then you really don't have competition. More and more, that seems to be 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 every 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 the likes of which we never imagined, 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. I would love to see the kind of competition, the kind of excitement, the kind of enthusiasm in agriculture as we now see in telecommunications.

Mr. President, 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 order for the quorum call be rescinded.

The PRESIDING OFFICER. Without 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 clerk will report.

The legislative clerk read as follows:

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

The amendment is as follows:

At the end, add the following:

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

SECTION ___01. SHORT TITLE.

This title may be cited as the ''Emergency Imported Electric Power Price Reduction Act of 1999''.

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the protection of the public health and welfare, the preservation 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 Joint Owners 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 policy 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 imported electric power is provided under the contract referred to in section ___02(a)(4); and

(3) to facilitate revisions to the price elements of the contract referred to in section ___02(a)(4) by declaring and making unlawful, effective 180 days after the date of enactment of this Act, the contract as it exists on the date of enactment of this Act.

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, the contract referred to in section ___02(a)(4), 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 or 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. EXCLUSIVE ENFORCEMENT.

(a) IN GENERAL.—Only the Attorney General of a State 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) relieves 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 an awful 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. COVERDELL, expressed that view well when he said:

> [W]hile 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. . . . The message 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 modified version of that bill was also introduced as an amendment to S. 254 earlier this year; that version was unanimously agreed to by the Senate.

Today, I am reintroducing that amendment as part 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 classrooms. Simply put, my amendment conditions receipt of federal education funds on state adoption of a policy of ''zero tolerance'' for student drug dealers. By zero tolerance, my amendment would require that drug traffickers be expelled from school for not less than one year.

Anyone who thinks this policy unduly harsh should consult the 1998 CASA National Survey of Teens, Teachers and Principals. Prepared by the National Center on Addiction and Substance Abuse at Columbia University under the direction of President Carter's former HEW Secretary, Joseph

Califano, the report states under the heading ''Drug Dealing in Our Schools'':

For too many kids, school has become not primarily a place for study and learning, but a haven for booze and drugs. . . . Parents should shutter when they learn that 22% of 12- to 14-year-olds and 51% of 15- to 17-year-olds know a fellow student at their school who sells drugs. . . . Indeed, not only do many of them know student drug dealers; often the drug deals take place at school itself. Principals and teachers may claim their schools are drug-free, but a significant percentage of the students have seen drugs sold on school grounds with their own eyes. . . . In fact, more teenagers report seeing drugs sold at school (27%) than in their own neighborhoods (21%).

The report goes on to detail that students consider drugs to be the number one problem they face, that illegal drugs are readily available to students of all ages, and that illegal drugs are now cheaper and more potent than ever before. According to CASA, ''one in four teenagers can get acid, cocaine or heroin within 24 hours, and given enough time, almost half (46%) would be able to purchase such drugs.'' Clearly, eliminating illegal drugs from America's classrooms is a required first step to restore order.

Impossible to calculate—the ill effects, disruptions, and violence associated with the drug trade are not limited to those who are active participants. The lives and 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 threatened others 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 Gun-Free Schools Act in 1994. Many commentators have, at least in part, credited that act with reducing the number of guns brought to our schools.

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 activity or because they 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, 79% of teachers, 73% of teenagers 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 that adoption of 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 not bring drugs on campus. Given this, it seems that schools . . . should implement and strictly enforce zero tolerance policies.

Mr. President, this policy is firm but fair. The drug trade and its violence have no place in America's schoolhouses. Schools should be a safe haven for our children, fostering an environment that is conducive to learning and supportive of the vast majority of students who are eager to learn. At the very least, our children and teachers deserve a school free of fear and violence.

President Clinton, in his 1997 State of the Union address, stated ''[W]e must continue to promote order and discipline, supporting communities that remove disruptive students from the classroom, and have zero tolerance for guns and drugs in schools.'' Echoing that view, Texas Governor George W. Bush, in a major education speech last week, called for zero tolerance policies for disruptive students, stronger enforcement of federal laws on bringing guns into schools and greater accountability from schools that receive federal money for drug and safety programs.

Mr. President, it is obvious that the need to set high standards to protect our children from the scourge of illegal drugs should be a subject of broad bipartisan consensus. I hope that the Congress will heed President Clinton and Governor Bush's calls and that the Senate will once again send a strong signal to all that we intend to give our children the support they need to grow up safe and drug-free.

• Mr. McCAIN. 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 combined 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 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 the very businesses that will face higher personnel costs. I support the Domenici amendment to incrementally increase the minimum wage because it also provides real tax and regulatory relief for small business owners 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 business people across America to help them offset the increased employee costs of this minimum wage increase. Small businesses will now be allowed to increase their expensing 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 power lunch'' for corporate executives, although this amendment limits the benefits of this tax deduction to small businesses and 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 transaction 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. The master hand of nature, after 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 bounce in our step that a crystal clear, crisp-aired fall day can bring, with the sun shining brightly as it makes its low arc across the sky, we are reminded during this time of the year of the cycles of the natural world. We are reminded that all too soon, 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 that Armistice Day would be celebrated yearly with an annual observance of ''thanksgiving and prayer and exercises designed to perpetuate peace through good will and mutual understanding between nations.''

After World War II, on June 1, 1954, Congress approved the Veterans Day Act that changed the name of Armistice Day to Veterans Day. I am the only Member of Congress who was serving in Congress at that time who is still serving today. Officially, on Veterans Day, we celebrate and recognize the sacrifices of our nation's soldiers, sailors, and airmen to protect our freedoms during all of the wars and conflicts involving the United States. That same year, President Eisenhower declared that on Veterans Day, Americans should ''solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom, and let us reconsecrate ourselves to the task of promoting an enduring peace so their efforts shall not have been in vain.''

From the beginning of our nation, America's sons and daughters have been ready to answer a call to duty. In particular, West Virginians have a proud enviable record of service to this country in the perilous times of war and conflict. Of the twenty-five million living veterans, one-hundred-ninety-thousand reside in the great State of West Virginia. More than ten-percent of the people of West Virginia are veterans who have served our nation proudly—that is more than ten of every one-hundred West Virginians. This tradition of dedication to serving is something I am proud of as a West Virginian. Through the turmoil and change of the twentieth century, one thing has remained constant—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 an unprecedented position of international leadership. Yet, the promise of lifelong health care that this country made to our men and women in uniform has been threatened, not by the aggression of a foreign power, but by inadequate funding. Caring for America's veterans is an ongoing cost of war. As America's veterans grow older, they require increased dependence on health care services. But, the Department of Veterans Affairs cannot be expected to provide the necessary care which veterans will need in Fiscal Year 2000, at the Fiscal Year 1999 level for veterans health care services. Veterans should not be expected to wait in longer lines, and travel farther for services. They must be provided quality service. If we fail in this obligation, how can we justify sending more and more young service members into harm's way? How can we expect our children and grandchildren to volunteer for military service in the future, if we are not prepared to keep promises to veterans today?

This year the budget came dangerously close to failing to provide for health care that veterans need and deserve. The Department of Veterans Affairs warned many veterans that they might not be eligible for veterans medical care services in Fiscal Year 2000. The strong need for quality medical care for veterans, and a sense of duty to these men and women who valiantly served, caused me to work very hard to meet the funding level for veterans' medical care recommended by the Senate Committee on Veterans Affairs—some $1.7 billion above the Administration's budget request. I would like to thank my colleagues who supported my efforts to raise the funding level for veterans medical care to $19 billion for Fiscal Year 2000. This level of funding will enable the VA to continue to provide quality health care to veterans, and will prevent the kinds of cuts in services that many veterans feared would place their eligibility for care in question.

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 pin-pointing 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 narrowing in on 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 them as they 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 order to secure and protect the freedoms that we, as Americans, enjoy today. Volunteering one's body and mind without thought of consequence in order to safeguard the ideologies our country holds dear, is the utmost act of patriotism. Today we recognize the importance of the hardships endured 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 ten highest per capita military retiree 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 200th and 515th 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, the survivors of the battle 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 to a total of $19.6 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. But it 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. As they pass, 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. As 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—men and 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 of our World War II veterans 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 remain concerned about the healthcare budget 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 heath care. This year's VA budget includes a 1.7 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 pursue this issue next year, 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 65 have ever served in the armed forces. Compare that with the fact that half of men over 50 have had at least two years of military service. In the years ahead, when we no longer have the Greatest Generation—The World War II Generation—as our model, we will have to do much more to guarantee that our society keeps our armed forces strong and able to meet any threat to our country.

David Broder, the senior Washington Post journalist and a veteran himself, recently expressed his concern about the growing civilian-military gap. He stated:

> The fact that no one younger than their mid-forties has even faced the possibility of being called-up for military service is one of the most significant generational divides in this country.

Clearly, this is cause for concern. The nation must work harder to preserve and strengthen the duties of citizenship that our veterans symbolize for all of us.

The military has traditionally been an effective way for America's youth to serve the nation. It is troubling that today almost two thirds of the nation's youth say they would not join the armed forces. Twenty years ago, only 40 percent said that. Since the Persian Gulf War, the interest among 16 to 21 year olds in enlisting has dropped from 34 percent to 26 percent. Last year the Army asked young adults:

> If you want to do something beneficial for your country, are you more likely to do it in the military or in a civilian job?

Two to one who responded said:

> In a civilian job.

Prosperity and complacency may explain such answers, but they do not justify them. Because of our nation's veterans, America is the greatest in the world, free from any major challenge from any other nation. The skillful work and dedication of our veterans have enabled our children and grandchildren to enjoy unparalleled national security and economic prosperity.

It is imperative in our democracy that citizens remain proud of the military and continue to respect and appreciate the sacrifices of those who serve.

As President Kennedy said in his Inaugural Address:

> Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty.

Million of Americans were inspired by 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 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 immeasurable. As a nation, 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 10,000 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 gestures of goodwill like hers that will keep America proud of its armed forces and the sacrifices of its veterans.

The cornerstone of our military preeminence rests on many factors, but the most critical is its people. Without men and women willing to volunteer for military duty, we will not be able 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 servicemen 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 servicemen and women conducted combat operations in Kosovo 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 bill. The GI Bill has been 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 Normandy landing, where 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 damaged Shermans had been put back on the line. Kids who had been working at gas stations and body shops two years earlier had brought their mechanical skills to Normandy. Nearly all the work was done as if the crews were back in the States, rebuilding damaged cars and trucks.

These were not professional soldiers, but average Americans. They left their families and friends behind to fight because their nation called. It is the dedication and ingenuity of these silent heroes that has made America great, and that made their Greatest Generation.

All of us in the Kennedy family have enormous respect for our veterans and their service to the nation. 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. This is what he said about his service in the Navy:

> 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 respond with a good deal of pride and satisfaction: ''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 honor, respect, and thank them for their service.

Mr. HATCH. Mr. President, on November 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 was, 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 veterans.

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 it's 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 only 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—approximately 70 million persons—are veterans, dependents of veterans, or survivors of deceased veterans. I and my family honor and remember my brother Jess who died in World War II and

my brother-in-law Neil Brown, who died in Vietnam.

In the decades before the all-volunteer army and sophisticated high-tech weaponry, our military was made up of ordinary people. School teachers, ministers, machinists, 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 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, in the air, and on foreign shores, to preserve our heritage of freedom, and let us reconsecrate 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 dedication 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
Feel a soft hush in 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. ROCKEFELLER. 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 well 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 and Hamburger Hill, defeating Nazism 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 so well and so valiantly, 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 very 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 very generous standard 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 complete. In order to truly commemorate 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 heros. I offer these words in honor and in 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 give themselves in service to 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 prove, when the nation beckons, to be just as committed to the preservation of life, liberty, and the pursuit of happiness as those we honor every November 11 proved to be.

I wonder how many Americans had those same doubts before the outbreak of WWI, WWII, Korea, Vietnam, or Desert Storm? I wonder how many who did go had dreamed that they would ever be called into the horror that is found on the battlefield?

Surely there were doubters. Surely there was apprehension and fear. But, they answered freedom's call. Our national story and the story of the American people is one of amazing courage in difficult times, and a proud tradition of triumph in the face of our enemies here and abroad. America has always been ready to act. The footprints left and the blood spilled by our soldiers, airmen, marines, sailors, and coast guardsmen around the world remain as 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 that so many have given us.

Inspiration can be found in many ways. Just the other day I was looking over Medal of Honor citations of some of Alabama's greatest heros. Taken together they represent a relatively 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 heros never realizing they would one day prove themselves worthy to wear the Medal of Honor? I choose to be excited by those thoughts because America might well be called upon again to defend the world against tyranny and evil, and I have no doubt that our men and women in uniform would again stand with the same steadfast resolve exhibited by those we honor today. I take great solace in knowing that the patriotism and heroism of Americans has been a constant for hundreds of years and will continue to be in the future.

America's veterans have made ours a great country. Hardly a person in America is not associated in some way

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. CHAFEE. Mr. President, one of my constituents, Mrs. Virginia Doris of Warwick, Rhode Island, recently sent my late father 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—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 marvelous period in my life.'' Equipped with what she refers to as her ''turbo persona,'' 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
Behold the farflung earthly frame,
Its pulsing marbles sculptured strong,
With ebbing currents and silvery thong,
Each graven with the threaded embrace
Is beaming out of seven-hued grace!

The mystic temple wakes the slumbering forms,
Takes the sacred dust they mercy warms,
And sounds the bugle near and clear white stone,
Close by these mounds which hold thy own.

We implore, O' Savior, here let sleeping lie,
'Till Heaven's luminous shadows prepare to die,
And join the manhood's folded-flock at night,
Psalms for bravery shall not pass in flight,
As raging battles, and girded loins, last time
To bond, lips to stir, a soldier's final clime!

O, Heavenly Father, mark their burden of decay,
The lives so young, war's lingering ebon fray,
Delivers them a shrouded throne, and solemn biers,
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 urns, the forlorn sounds;
With mournful message to our brothers, resign,
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 the University of Mississippi, 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 telecasts. 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,'' ''Is 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 many references 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 and Ole Miss have blended 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 first 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 Hotshots, after the Lakota word for the bison that used to roam the Great Plains by the tens of thousands. The nearly two dozen members of this team, virtually all of whom are Native American, come from diverse backgrounds. Some came from 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. It conducted seven large firing/burnout operations, built miles of fireline, constructed helispots 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 fireworks display, tending the commemorative crosses 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 Hotshot 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 challenges our nation has to offer. 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'S 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 seven 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 plants. 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 effort. To seek relief 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, Midwestern 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 power plants produce nearly 9,000 tons a day 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. Approximately 67 million people east of the Mississippi River live in area with unhealthy levels of smog. EPA estimates that every year that implementation of regional pollution controls are delayed, there are between 200–800 premature deaths, thousands of additional incidences of moderate to severe respiratory symptoms in children, and hundreds of thousands of children suffering from breathing difficulties. Now these polluting power plants want special relief during the court's review.

The alleged violations result from a portion of the Clean Air Act that many refer to as the ''grandfathering'' provisions. When the Clean Air Act was amended in 1970 and 1977, there were two categories of requirements: those for existing power plants, and those for new sources. At the time, most people envisioned that the older coal burning plants would soon be retired, making the additional controls for old plants unnecessary. Instead, the life span of older coal fired plants has been extended by modifications to their facilities. Many of the older coal fired plants have stayed around for three decades; and coal power plants are now the largest industrial source of smog pollution. Of the approximately 1,000 power plants operating today, 500 were built before modern pollution control requirements went into effect.

Although the Clean Air Act did exempt older plants from the new standards, it required that the plants meet a test of ''prevention of significant deterioration'' to protect the public when a plant undertook a major modification. Although the definition of ''major modification'' has been debated, Section 111 of the Clean Air Act clearly states that a modification means ''any physical change . . . which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.'' What is at stake in the recent enforcement action is the question of whether the power plants undertook major modifications without installing state of the art pollution controls, in violation of this Clean Air Act requirement.

Mr. KERRY. Will the Senator yield for a question?

Mr. LIEBERMAN. Certainly.

Mr. KERRY. I understand from some of the publicity around a similar suit filed by the New York Attorney General that some of the modifications being made to power plants were significant. For example, one company allegedly replaced a reheater header and outlet, a pulverized coal conduit system, the economizer, and casing insulation. While it is impossible to judge any of these types of modifications without additional information, it certainly seems like utilities created a loophole in the law to essentially rebuild the system without considering it as a major modification. Would a legislative rider on this issue essentially pre-judge the court's findings as to whether the modifications undertaken at the plant are indeed ''major''?

Mr. LIEBERMAN. Yes. With this rider, Congress would be substituting its 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 change is a significant departure from the current law, which requires that pollution 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 deliberation. I yield back to my colleague from Massachusetts.

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 Northeast have already taken steps to reduce pollution to comply with Clean Air Act requirements, including instituting major controls on these older power plants ed plants. Northeast Utilities has spent $40 million in the last 8 years to reduce fossil plant emissions. In a July 31, 1998 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 installation has minimal impact on 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 interesting 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 controls. 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 politics at play here. I respectfully and strongly disagree, and I urge my colleagues to disregard such rhetoric. It has been estimated that as many as 1,000 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 are outside my state, 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. Mercury, which is highly poisonous, accumulates in fish locally. In other words, there is a very real cost to this pollution. Indeed, for some, the price they pay is their very health and well being. I can accept that some of my colleagues may feel that the Department of Justice or the Environmental Protection Agency is pursuing a flawed legal argument, but I cannot accept that the people who are alleging harm, who are paying the price for this pollution, should be denied their day in court. The Department of Justice should not serve at the pleasure of Congress and defendants with the power influence Congress, it should serve the law and the people. I yield to my colleague Senator LIEBERMAN.

Mr. LIEBERMAN. Thank you. Certainly, many of our constituents have concerns about how cost and service delivery would be implicated under any enforcement action. If the court were to impose fines and injunctive requirements which would force power companies to go out of business, I think we would all join in opposing that outcome. Yet time and again, we hear claims that such dire outcomes will occur when we ask companies to comply with the law. But the evidence shows that environmental goals are being met without sacrificing economic growth. In this circumstance, I believe the Department of Justice and EPA have been clear that their objective, if the violations are found to have occurred, is to require that the utilities make appropriate investments in pollution control. In fact, EPA has a demonstrated record on the kind of remedy it has sought in a similar case that involved another segment of industry.

EPA recently undertook a similar enforcement action against the paper and pulp industry for similar major New Source Review violations. After looking into the paper and pulp sector as part of its Wood Products Initiative, the EPA found New Source Review violations at roughly 70–80 percent of the facilities it investigated. Through its enforcement action, EPA was able to work with industry to generate emission reductions as high as 500 tons of volatile organic compounds. However, these enforcement actions did not require that controls be put in all at once. Rather, a schedule was created to phase in controls so that the pollution controls were instituted in a way that protected the public without crippling the industry. It is disingenuous to argue that we need a preemptive rider to protect against what the outcome of the pending enforcement action might be. There is a history of enforcement decisions which demonstrate that the courts secure remedies that protect the public's interest, and that EPA has had a willingness to work with industry to that end.

Fundamentally what we are addressing here is a matter of fairness. Right now utilities in Southern and Midwestern states emit over 4.5 times more nitrogen oxides than utilities in the Northeast. A study by the Northeast States for Coordinated Air Use Management found that northeastern states will have to pay between $1.4 and $3.9 billion for additional local controls to reduce ozone pollution if six upwind states fail to implement needed controls. I notice that my colleague from Vermont is here. I yield the floor for him to offer some remarks about how the equity issue is particularly important within a deregulated marketplace.

Mr. JEFFORDS. I thank my distinguished colleague from Connecticut for his acute remarks. He is quite right: at root, this is a question of equity, and it is a question of fundamental importance in a deregulated power market.

The Nation's dirtiest power plants have abused loopholes in federal law to dirty our air, pollute our lungs, and kill our most vulnerable citizens. With one set of loopholes about to close, these power plants now seek to create new ones.

These power plants have exploited the law for nearly 30 years. Now, EPA is exposing their effort for what it is: a blatant violation of the public trust. In response, these dirty polluters are pushing appropriations riders that would justify and permanently extend their unlimited ability to pollute.

Haven't these power plants done enough damage already? Isn't it enough that they have been allowed to pollute 10 times more than our plants in the Northeast for years and years? Couldn't they now apply the same pollution control equipment that our plants in the Northeast employ?

The problem is growing even worse with the deregulation of electricity markets. In the five years since deregulation of the wholesale electricity market, increased generation at coal fired power plants has added the equivalent of 37 million cars worth of smog to our air. These power plants are now seeking to permanently extend their unfair advantage.

We need a level playing field. The nation's dirtiest power plants should not be able to exploit loopholes in federal law at the expense of the rest of the nation. We need to pass laws to clean up our air, not make it dirtier. I strongly oppose any attempt to make it easier for the nation's dirtiest power plants to continue their excessive pollution.

Mr. MOYNIHAN. Mr. President, I want to thank my colleagues for voicing their justified concerns on this important issue. I understand that there is the potential for language to be added to one of the remaining appropriations bills that 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.

As Senator LIEBERMAN has explained, a number of coal-burning facilities were ''grandfathered,'' exempting them from pollution control requirements. Congress believed that utilities would soon retire these older plants. The grandfathered facilities were given permission to proceed with routine maintenance, but any major modifications would be subject to review. It now appears that a number of these facilities did circumvent the law by increasing generating capacity without installing the appropriate pollution control technologies.

Now, it appears these same facilities—after receiving notification that New York and potentially other states intend to sue for these violations of the Clean Air Act—may, once again, circumvent the law by encouraging the adoption of a rider which would interfere with these lawsuits. Any effort by implicated utilities to thwart efforts of States to obtain injunctive relief, which States could use to mitigate damage which has already occurred, is inappropriate.

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 a balance of powers in The Federalist Papers. The Framers of the Constitution presumed conflict. The Constitution assumes self-interest. It carefully balances the power by which one interest will offset another interest, and the

outcome will be, in that wonderful phrase of Madison, 'the defect of better motives.'

The States must be allowed to protect their rights. I should think that any Member of this body ought to defer to the courts before which 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. The 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. If we do it here, will we attach 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 up again 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 knows the history of the Clean Air Act more than any of us. Senator LIEBERMAN, how do you see this enforcement action affecting the Clean Air Act loophole?

Mr. LIEBERMAN. I thank my colleague 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 devised in the 1950's or before. The EPA–DOJ 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 do not have to meet the same air quality 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 fired power plants in Tennessee, Kentucky, and Alabama? Fifty-eight of 59 units are grandfathered, with the average startup year being 1957, 13 years before the Clean Air Act was passed. The average electricity prices for the TVA states are 6.03 cents in Tennessee, 5.58 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 TVA plants were all in one state that state would rank sixth in CO2 emissions. In 1997, the TVA plants emitted 808,500 tons of acid rain producing SO2. If the TVA plants were all in one state that state would rank fifth in SO2 emissions. Unfortunately we do not have comparable data for ozone producing nitrogen oxide emissions or for emissions of toxic mercury, but I think my point on emissions is made. We should not be looking for a way to unfairly exempt TVA or other grandfathered plants from environmental regulations, rather we need to be looking for the best ways to bring these old plants up to date with current technology.

Again, I want to thank my colleagues for their conviction on objecting to this rider. Congress needs to close the grandfather loophole, not attempt backdoor ways to thwart the will of the prior Congresses that enacted the Clean Air Act of 1970, and the amendments to it in 1977 and 1990.

Mr. LAUTENBERG. Mr. President, I would like to join my colleagues in expressing concern about the language that would interfere with enforcement actions against several power companies. Here we have an excellent example of why we should not be addressing complex, controversial matters in last-minute amendments to spending bills. The proponents of the language assert that they have no interest in interfering with the EPA–DOJ enforcement actions. In fact, the language they have been circulating would wreak havoc on the enforcement actions. The proponents assert that they are interested merely in allowing routine maintenance to occur, but in fact their language makes no mention of routine maintenance. The proponents assert that their language would have no impact on the environment, but in fact their language would allow increases in actual emissions. They also raise the specter of drastic effects to the power industry, which we have not seen in other industries that faced similar enforcement actions.

At the very least, we should all agree that this issue is sufficiently complicated and controversial, and its impacts on public health profound enough, that it deserves to be worked out in the authorizing process. It is for problems like this that we have authorizing committees, such as the Environment and Public Works Committee on which I sit, and before which I am sure the proponents would find a sympathetic audience. It is in the daylight of the authorizing process, where we can hear from expert witnesses, where we can have public markups, and where we take the time to untangle and properly resolve these types of issues, that we should address this issue.

TEN-YEAR ANNIVERSARY OF THE FALL OF THE BERLIN WALL

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 lose sight of the special 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 democracy in human history.

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 by 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

served by the millions in uniform and who put up trillions—trillions—of dollars to fight the cold war; by the citizens of NATO and other allied nations who made similar sacrifices of blood and treasure; by many of their fellow countrymen who over many years kept small fires of freedom burning in their hearts for the day when the wall would come down; and, at critical moments, by great leaders.

Joseph Shattan, a former White House speech writer and, now, a Bradley Fellow at the Heritage Foundation, has chronicled this leadership in his book ''Architects of Victory: Six Heroes of Cold War,'' published by Heritage, and excerpted recently in essay form in the Washington Times. He describes how six remarkable individuals—Winston Churchill, Harry Truman, Knorad Adenauer, Alexander Solzhenitsyn, Pope John Paul II, and Ronald Reagan—seized their own moment in the cause of freedom.

Mr. President, as Americans, we should on this day take special note of the two American Presidents—one Democrat, one Republican, who played such vital roles in bringing about the fall of the Berlin Wall ten years ago. Here is Shattan on Harry Truman:

Underlying Truman's policies was the conviction that Soviet totalitarianism was no different than Nazi totalitarianism. In his view, both the Nazis and the communists violated human rights at home and sought to expand their empires abroad. To secure a world where democratic values might flourish, Truman believed the United States had to contain Soviet expansionism—through economic and military aid if possible, through force of arms if necessary. Over the long run, a successful policy of containment would cause Soviet leaders to lose their faith in the inevitability of a global communist triumph. Only then could negotiations with Moscow contribute to a safer, more peaceful world.

Because the Truman administration's policy of containment set the course for U.S. foreign policy over the next 35 years, it seems in retrospect to have been a natural, even inevitable, response to Soviet aggressiveness. But it was nothing of the sort. Truman's predecessor, Franklin Roosevelt, had taken a markedly different approach toward Moscow—one aimed at cementing an enduring U.S.-Soviet friendship—and when Truman became president, he was determined to follow in FDR's footsteps, even if it meant ignoring his own instincts. But Truman gradually worked his way out from under FDR's long shadow and placed his own indelible stamp on U.S. foreign policy.

Truman's decisive break with FDR's foreign policy came in a historic speech delivered before a joint session of Congress on March 12, 1947. ''I believe it must be the policy of the United States,'' he declared, ''to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.'' Alonzo Hamby, one of Truman's biographers, rightly called this speech ''the decisive step in what would soon be called the Cold War.''

Harry Truman's steadfast commitment to ''free peoples'' assured that the Iron Curtain would encroach no further on freedom. But it took another President to push the Wall over. Here again is Shattan on Ronald Reagan:

But while liberals frequently disparaged Mr. Reagan's intellect, the fact was that he subscribed wholeheartedly to one major truth that many of his intellectually sophisticated critics either never knew or had forgotten: Societies that encourage freedom and creativity tend to flourish, while societies that suppress liberty tend to stagnate. This was the central truth around which Ronald Reagan fashioned his political career. This was the crucial insight that he articulated with passion and eloquence and pursued with iron resolve. And this was the basis of his Soviet strategy.

Underlying Mr. Reagan's approach to the Soviet Union was his profound (his critics would say ''childlike'' or ''simplistic'') faith in freedom. Mr. Reagan simply knew that there was no way a closed society like the Soviet Union could prevail against an open society like the United States once the open society made up its mind to win. And Mr. Reagan, years before he became president, decided that the United States would win the Cold War . . . The military buildup, the support of anti-communist movements worldwide (better known as the ''Reagan Doctrine''), the Strategic Defense Initiative, the covert assistance to the Polish trade union Solidarity, the economic sanctions against Moscow—all were meant to force an already shaky Soviet system to embark on a course of radical reform. These reforms (perestroika, glasnost) soon acquired a momentum of their own, and eventually brought down the Soviet Union.

Mr. Reagan's approach to foreign policy was unprecedented. The traditional U.S. strategy was to seek to contain Soviet power and hope that, at some unspecified point in the future, containment would convince the communist ruling class to abandon its expansionist course. By contrast, Mr. Reagan sought not merely to contain the Soviets but to overwhelm them with demonstrations of U.S. power and resolve that left them with no alternative but to accept the choice he offered them: Change or face defeat.

His success proved that great leadership does not depend on intellectual or historical sophistication. What is needed, above all, is the right set of convictions and the courage to stand by them. Mr. Reagan's beliefs about freedom and tyranny were uniquely rooted in the American experience, and his courage reflected the quiet self-confidence of the American heartland. His was truly a U.S. presidency that changed the world.

Much has changed in 10 years. Yes, we still have walls to tear down—on the Demilitarized Zone in Korea, around the island of Cuba, and everywhere that people around the globe still struggle for peace and freedom. But the Cold War is over. Freedom won. As we watch the many celebrations underway today—in Berlin, all over Europe, and elsewhere in the world—let us honor Cold War heroes, and rededicate ourselves to the cause of freedom they championed. And, my colleagues, as we conduct the people's business, let us seek to renew an abiding reverence for the freedom that brings us here.

THE INTERSTATE TRANSPORTATION OF DANGEROUS CRIMINALS ACT

Mr. LEAHY. Mr. President, the recent escape of convicted child murderer Kyle Bell from a private prison transport bus should serve as a wake-up call, to the Congress and to the country. Kyle Bell slipped off a TransCorp America bus on October 13, while the bus was stopped in New Mexico for gas. Apparently, he picked the locks on his handcuffs and leg irons, pushed his way out of a rooftop vent, hid out of sight of the guards who traveled with the bus, and then slipped to the ground as it pulled away. He was wearing his own street clothes and shoes. The TransCorp guards did not notice that Bell was missing until nine hours later, and then delayed in notifying New Mexico authorities. Bell is still at large.

Kyle Bell's escape is not an isolated case. In recent years, there have been several escapes by violent criminals when vans broke down or guards fell asleep on duty. There have also been an alarming number of traffic accidents in which prisoners were seriously injured or killed because drivers were tired, inattentive, or poorly trained.

Privatization of prisons and prisoner transportation services may be cost efficient, 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 employee 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 recapturing any violent prisoner who escapes as the result of such violation. This should create a healthy incentive for companies to abide by the regulations and operate responsibly.

I commend Senator DORGAN for his leadership on this legislation and urge its speedy passage.

NATIONAL MISSILE DEFENSE REPORT

Mr. COCHRAN. Mr. President, a report on the National Missile Defense program has been completed and will be released shortly by a panel of experts which is chaired by retired Air Force General Larry Welch. The director of the Defense Department's Ballistic Missile Defense Organization requested 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 aspects of both the National Missile Defense program and several Theater Missile Defense programs.

Generally speaking, the newest Welch 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 BMDO to structure and run the best program possible.

In particular, I support the report's emphasis on giving the BMDO program manager, as well as the Lead Systems Integrator, increased authority in running this program.

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's 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 phased decision 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 North Korea's flight test of the three-stage 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 United States vulnerable to rogue 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 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 have 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 facilities. 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 indict 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 have nothing at all to do 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''—from 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 only to the provisions dealing with patent reform and inventor protection, provisions 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 unsrupulous firms that take advantage of 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 Comissioner of the Paetnt 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 pates 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 patent law. It is my understanding 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 inventors 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 Regulation and Governmental Affairs, 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 am gratified that a number of the provisions from my bill have been used in a title of this year's patent reform legislation specially 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 promotes.

The provisions contained in the American Inventors Protection Act represent our best hope for passage of meaningful patent reform. I urge 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 manufacturing facility, a meat processing 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 oil 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 of 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 can provide the Cody area with a wonderful community building opportunity.

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 cosponsored 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 risks of hindering 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. First, our 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. Nearly one-quarter of the new homes nationwide are manufactured homes, and an estimated 8% of the American population lives in manufactured homes.

Despite the increasing 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 costs taxpayers nothing.

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 warranties, and as a cosponsor of 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 will be 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 an 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 lead up to that confrontation 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 their civil rights stance. Advertisers withdrew their business and the paper suffered financial hardships from which it could not recover. She and L.C. were threatened with bombs and guns. They 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, instilled in her during a childhood spent in Huttig, Arkansas. And this strong character shone through as she willingly took a leadership role to battle the legal and political inequities of segregation in our state and the nation.

Mrs. Bates continued to work tirelessly in anti-poverty programs, community development and neighborhood improvement. She published a book, for which another remarkable woman, Eleanor Roosevelt, wrote the introduction. Daisy also spent time working for the Democratic National Committee and for President Johnson's administration.

Many people honored Daisy Bates during her lifetime. In 1997, Mrs. Bates received for her courage and character, the Margaret Chase Smith Award, named after the second woman ever elected to the U.S. Senate. Daisy Bates carried the Olympic torch from a wheelchair during the 1996 Atlanta games. Many more, I am sure, will honor her after her death. I am proud to honor her today in the U.S. Senate.

Mrs. Bates will lie in state on Monday at the State Capitol Rotunda in Little Rock. Ironically, this is only blocks away from the school where that famous confrontation occurred in 1957. And in another twist of fate, the Little Rock Nine are scheduled to receive Congressional Gold Medals in a White House ceremony with President Bill Clinton this Tuesday, the very same day Daisy Bates will be laid to rest.

This great woman leaves a legacy to our children, our state and our nation; a love of justice, freedom and the right to be educated. A matriarch of the civil rights movement has passed on but I'm encouraged by the words of her niece, Sharon Gaston, who said, ''Just don't let her work be in vain. There's plenty of work for us to do.''

Mr. President, there is still much work to be done to bring complete civil rights and equality to our nation. Today, as we pause to remember Daisy Gaston Bates, I hope we will be renewed and refreshed in our efforts.

CONGRESSIONAL BUDGET OFFICE ESTIMATES OF S. 977

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 would ''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.

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. CHAIRMAN: 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.

Enclosure.

S. 977—Miwaleta Park Expansion Act

S. 977 would direct the Secretary of the Interior to convey, without compensation, Miwaleta Park and certain adjacent land to Douglas County, Oregon. The bill stipulates that the county must use this land for recreational 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.

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 29, 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. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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 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.

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 will most likely to future 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 address 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 change is more than 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 General Eric Shinseki, Chief of Staff of the U.S. Army, announced his intention to begin to transform the U.S. Army from a heavy force designed largely for the Cold War to one that will be more effective against the threats that most now see as most likely and most dangerous. The goal is to make the U.S. Army more strategically relevant by making it lighter, more deployable, more lethal, and more sustainable. 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 force. He has said that he wants 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 change is 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 so 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 plan nor program be agreed to or resourced 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 there at their own risk.

Cuba, on the other hand, a country 90 miles away that poses about as much threat to the United States as a flea does to a buffalo, is off limits unless you are a journalist, government official, or member of some other special group. If not, you can only get there by breaking the law, which an estimated 10–15,000 Americans did last year.

Of all the ridiculous, anachronistic, and self-defeating policies, this has got to be near the top of the list.

For forty years, administration after administration, and Congress after Congress, has stuck by this failed policy. Yet Fidel Castro is as firmly in control today as he was in 1959, and the Cuban people are no better for it.

This legislation attempts to put some sense into our policy toward Cuba. It would also protect one of the most fundamental rights that most Americans take for granted, the right to travel freely. I commend the senior Senator From Connecticut, Senator DODD, who has been such a strong and persistent advocate on this issue. I am proud to join him in cosponsoring this legislation, which is virtually identical to an amendment he and I sponsored earlier this year. That amendment came within 7 votes of passage.

Mr. President, in March of this year I traveled to Cuba with Senator JACK REED. We were able to go there because we are Members of Congress.

I came face to face with the absurdity of the current policy because I wanted my wife Marcelle to accompany me as she does on most foreign trips. A few days before we were to leave, I got a call from the State Department saying that they were not sure they could approve her travel to Cuba.

I cannot speak for other Senators, but I suspect that like me, they would also not react too kindly to a policy that gives the State Department the authority to prevent their wife, or their children, from traveling with them to a country with which we are not at war and which, according to the Defense Department and the vast majority of the American public, poses no threat to our security.

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, 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 hundreds of millions 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

goes for Sudan. These are countries that pose far greater threats to American interests than Cuba.

Our policy is hypocritical, inconsistent, and contrary to our values as a nation that believes in the free flow of people and ideas. It is impossible for anyone to make a rational argument that America should be able to travel freely to North Korea, or Iran, but not to Cuba. It can't be done.

We have been stuck with this absurd policy for years, even though virtually everyone knows, and says privately, that it makes absolutely no sense and is beneath the dignity of a great country.

It not only helps strengthen Fidel Castro's grip on Cuba, it hands a hug advantage to our European competitors who are building relationships and establishing a base for future investment in a post-Castro Cuba. When that will happen is anybody's guess. President Castro is no democrat, and he is not going to become one. But it is time we pursued a policy that is in our national interest.

Let me be clear. This legislation does not, I repeat does not, lift the U.S. embargo. It is narrowly worded so it does not do that. It only permits travelers to carry their personal belongings. We are not opening a floodgate for United States imports to Cuba.

The amendment limits what Americans can bring home from Cuba to the current level for government officials and other exempt categories, which is $100.

It reaffirms the President's authority to prohibit travel in times of war, armed hostilities, or if there is imminent danger to the health or safety of Americans.

Those who want to prevent Americans from traveling to Cuba, who oppose this legislation, will argue that spending United States dollars there helps prop up the Castro Government. To some extent that is true. The government does run the economy. It also runs the schools and hospitals, maintains roads, and, like the United States Government, is responsible for the whole range of social services that benefit ordinary Cubans. Any money that goes into the Cuban economy supports those programs.

But there is also an informal economy in Cuba, because no one but the elite can survive on their meager government salary. So the income from tourism also fuels that informal sector, and it goes in to the pockets of ordinary Cubans.

It is also worth pointing out that while the average Cuban cannot survive on his or her government salary, you do not see the kind of abject poverty in Cuba that is so common elsewhere in Latin America. In Brazil, or Panama, or Mexico, or Peru, there are children searching through garbage in the streets for scraps of food, next to gleaming high rise hotels with Mercedes limousines lined up outside.

In Cuba, almost everyone is poor. But they have access to the basics. The literacy rate is 95 percent. The life expectancy is about the same as in our country, even though the health system is very basic and focused on preventive care.

The point is that while there are obviously parts of the Cuban economy that we would prefer not to support—as there is in North Korea, China, or Sudan, or in any country whose government we disagree with, much of the Cuban Government's budget benefits ordinary Cubans. So when opponents of this legislation argue that we cannot allow Americans to travel to Cuba because the money they spend there would prop up Castro, remember what they are not saying: those same dollars also help the Cuban people.

It is also worth saying that as much as we want to see a democratic Cuba, President Castro's grip on power is not going to be weakened by keeping Americans from traveling to Cuba. History has proven that. He has been there for forty years, and as far as anyone can tell he is not going anywhere.

Mr. President, it is about time we injected some maturity into our relations with Cuba. Let's have a little more faith in the power of our ideas. Let's have the courage to admit that the cold war is over. Let's get the State Department out of the business of telling our wives, our children, and our constituents where they can travel and spend their own money—in a country that the Pentagon say poses no security threat to us.

This legislation will not end the embargo, but it will do far more to win the hearts and minds of the Cuban people than the outdated approach of those who continue to defend the status quo.

HIGH SPEED RAIL INVESTMENT ACT

Mr. KERRY. Mr. President, let me begin by congratulating Senator LAUTENBERG for developing this important piece of legislation that recognizes the importance of rail in our overall transportation system as we approach the 21st Century.

I am proud to be an original cosponsor of the High Speed Rail Investment Act, which will provide Amtrak with much needed resources to pay for high speed rail corridors across the country. This legislation is crucial for the country, and for my home state of Massachusetts, and I am hopeful we can move it quickly through Congress.

This bill will give Amtrak the authority to sell $10 billion in bonds over the next ten years to finance high speed rail. Instead of interest payments, the federal government would provide tax credits to bondholders. Amtrak would repay the principle on the bonds after 10 years, however, the payments would come primarily from required state matching funds. I know many states will gladly participate in this matching program, as their governors and state legislatures are eager to promote high speed rail. Amtrak would be authorized to invest this money solely for upgrading existing lines to high speed rail, constructing new high speed rail lines, purchasing high speed rail equipment, eliminating or improving grade crossings, and for capital upgrades to existing high speed rail corridors.

Let there be no mistake, this country needs to develop a comprehensive national transportation policy for the 21st Century. So far, Congress has failed to address this vital issue. What we have is an ad hoc, disjointed policy that focuses on roads and air to the detriment of rail. We need to look at all of these modes of transportation to alleviate congestion and delays on the ground and in the sky and to move people across this country efficiently. Failing to do this will hamper economic growth and harm the environment.

Despite rail's proven safety, efficiency and reliability in Europe and Japan, and also in the Northeast corridor here in the U.S., passenger rail is severely underfunded. We need to include rail into the transportation mix. We need more transportation choices and this bill helps to provide them.

In the Northeast corridor, Amtrak is well on its way to implementing high speed rail service. The high speed Acela service should start running from in January. This will be extremely helpful in my home state of Massachusetts, where airport and highway congestion often reach frustrating levels. The more miles that are traveled on Amtrak, the fewer trips taken on crowded highways and skyways.

But new service in the Northeast corridor is only the beginning. We need to establish rail as a primary mode of transportation along with air and highways. This bill well help us achieve that goal across the country and I am proud to be an original cosponsor of such an important piece of legislation.

THE TERROR OF GUN VIOLENCE

Mr. LEVIN. Mr. President, the call to end gun violence has become all too commonplace during this session of Congress. It seems as if each day, another one of us comes to the floor to express our outrage. Last week, it was about workplace violence in Honolulu and Seattle—a total of nine dead. In September it was a church shooting in Texas—a total of seven dead. In August, gun shots were fired in a Jewish Community Center in Los Angeles—five injured, and moments later, a federal worker was gunned down on the street. In July, another workplace shooting—again nine people killed, this time in Atlanta. The list goes on and on, including one shooting none of us can forget—15 dead in Littleton.

Each month, we watch these tragedies unfold—we witness Americans running and screaming for their lives, toddlers being led hand-in-hand out of danger, even bloody teenagers dangling

from windows. And as the helicopters and SWAT-teams come to more and more of our neighborhoods, we observe scenes that seem more suitable for a horror movie than the front page of our local papers.

And, still, each month, we react in the same way. We express outrage, we condemn killers, we call for sensible gun safety legislation, but we do not act. Congress has done nothing this year to control these mass-shootings or in any way, ease the agony that parents and families feel each day when they send their loved ones to school, church, or work.

Mr. President, as Congress prepares to adjourn for the year, I send out this reminder: Americans have lost the sense of safety that they once felt in their schools and neighborhoods. They are frightened that the next breaking news story will be filmed on main street, rather than as a ''nightmare on elm street''. It is up to Congress to end gun violence and the all too familiar terror in the lives of ordinary Americans.

ROLLCALL NO. 361

Mr. KYL. Mr. President, I inadvertently missed rollcall No. 361 regarding the nomination of Carol Moseley-Braun. Had I been present, I would have voted ''aye.''

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, November 9, 1999, the Federal debt stood at $5,659,600,009,349.26 (Five trillion, six hundred fifty-nine billion, six hundred million, nine thousand, three hundred forty-nine dollars and twenty-six cents).

One year ago, November 9, 1998, the Federal debt stood at $5,556,815,000,000 (Five trillion, five hundred fifty-six billion, eight hundred fifteen million).

Five years ago, November 9, 1994, the Federal debt stood at $4,720,919,000,000 (Four trillion, seven hundred twenty billion, nine hundred nineteen million).

Ten years ago, November 9, 1989, the Federal debt stood at $2,893,041,000,000 (Two trillion, eight hundred ninety-three billion, forty-one million).

Fifteen years ago, November 9, 1984, the Federal debt stood at $1,613,716,000,000 (One trillion, six hundred thirteen billion, seven hundred sixteen million) which reflects a debt increase of more than $4 trillion—$4,045,884,009,349.26 (Four trillion, forty-five billion, eight hundred eighty-four million, nine thousand, three hundred forty-nine dollars and twenty-six cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations 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 PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

On November 14, 1994, in light of the dangers of the proliferation of nuclear, biological, and chemical weapons (''weapons of mass destruction''—WMD) and of 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 their means of delivery continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy 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. Accordingly, 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.''

On July 28, 1998, in Executive Order 13094, I amended section 4 of Executive Order 12938 so that the United States Government could more effectively respond to the worldwide threat of weapons of mass destruction proliferation activities. The amendment of section 4 strengthens Executive Order 12938 in several significant ways. The amendment broadens the type of proliferation activity that can subject entities to potential penalties under the Executive order. The original Executive order provided for penalties for contributions to the efforts of any foreign country, project or entity to use, acquire, design, produce, or stockpile chemical or biological weapons; the amended Executive order also covers contributions to foreign programs for nuclear weapons and for missiles capable of delivering weapons of mass destruction. Moreover, the amendment expands the original Executive order to include attempts to continue to foreign proliferation activities, as well as actual contributions, and broadens the range of potential penalties to expressly include the prohibition of U.S. Government assistance to foreign persons, and the prohibition of imports into the United States and U.S. Government procurement. In sum, the amendment gives the United States Government greater flexibility and discretion in deciding how and to what extent to impose measures against foreign persons that assist proliferation programs.

NUCLEAR WEAPONS

In May 1998, India and Pakistan each conducted a series of nuclear tests. World reaction included nearly universal condemnation across a broad range of international fora and multilateral support for a broad range of sanctions, including new restrictions on lending by international financial institutions unrelated to basic human needs and on aid from the G–8 and other countries.

Since the mandatory imposition of U.S. statutory sanctions, we have worked unilaterally, with other P–5 and G–8 members, and through the United Nations, to dissuade India and Pakistan from taking further steps toward developing nuclear weapons. We have urged them to join multilateral arms control efforts and to conform to the standards of nonproliferation regimes, to prevent a regional arms race and build confidence by practicing restraint, and to resume efforts to resolve their differences through dialogue. The P–5, G–8, and U.N. Security Council have called on India and Pakistan to take a broad range of concrete actions. The United States has focused most intensely on several objectives that can be met over the short and medium term: an end to nuclear testing and prompt, unconditional ratification of the Comprehensive Nuclear Test-Ban Treaty (CTBT); engagement in productive negotiations on a fissile material

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 aircraft; and adoption of controls meeting international standards on exports of sensitive materials and technology.

Against this backdrop of international pressure on India and Pakistan, high-level U.S. dialogues with Indian and Pakistani officials have yielded little progress. In September 1998, Indian and Pakistani leaders had expressed a willingness to sign the CTBT. Both governments, having already declared testing 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 1999, a development that has delayed 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 said 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 FMCT 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 the United States and others 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, and our diplomatic efforts in concert with the P–5, G–8, and in international fora. Efforts may be further complicated by India's release in August 1999 of a draft of its nuclear doctrine, which, although its timing may have been politically motivated, suggests that India intends to make nuclear weapons an integral part of the national defense.

The Democratic People's Republic of Korea (DPRK or North Korea) continues to maintain a freeze on its nuclear facilities consistent with the 1994 U.S.–DPRK Agreed Framework, which calls for the immediate freezing and eventual dismantling of the DPRK's graphite-moderated reactors and reprocessing plant at Yongbyon and Taechon. The United States has raised its concerns with the DPRK about a suspect underground site under construction, possibly intended to support nuclear activities contrary to the Agreed Framework. In March 1999, the United States reached agreement with the DPRK for visits by a team of U.S. experts to the facility. In May 1999, a Department of State team visited the underground facility at Kumchang-ni. The team was permitted to conduct all activities previously agreed to help remove suspicions about the site. Based on the data gathered by the U.S. delegation and the subsequent technical review, the United States has concluded that, at present, the underground site does not violate the 1994 U.S.–DPRK Agreed Framework.

The Agreed Framework requires the DPRK to come into full compliance with its NPT and IAEA obligations as a part of a process that also includes the supply of two light water reactors to North Korea. United States experts remain on-site in North Korea working to complete clean-up operations after largely finishing the canning of spent fuel from the North's 5-megawatt nuclear reactor.

The Nuclear Non-Proliferation Treaty (NPT) is the cornerstone on the global nuclear nonproliferation regime. In May 1999, NPT Parties met in New York to complete preparations for the 2000 NPT Review Conference. The United States is working with others to ensure that the 2000 NPT Review Conference is a success that reaffirms the NPT as a strong and viable part of the global security system.

The United States signed the Comprehensive Nuclear-Test Ban Treaty on September 24, 1996. So far, 154 countries have signed and 51 have ratified the CTBT. During 1999, CTBT signatories conducted numerous meetings of the Preparatory Commission (PrepCom) in Vienna, seeking to promote rapid completion of the International Monitoring System (IMS) established by the Treaty. In October 1999, a conference was held pursuant to Article XIV of the CTBT, to discuss ways to accelerate the entry into force of the Treaty. The United States attended that conference as an observer.

On September 22, 1997, I transmitted the CTBT to the Senate, requesting prompt advice and consent to ratification. I deeply regret the Senate's decision on October 13, 1999, to refuse its consent to ratify the CTBT. The CTBT will serve several U.S. national security interests by prohibiting all nuclear explosions. It will constrain the development and qualitative improvement of nuclear weapons; end the development of advanced new types of weapons; contribute to the prevention of nuclear proliferation and the process of nuclear disarmament; and strengthen international peace and security. The CTBT marks a historic milestone in our drive to reduce the nuclear 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.

With 35 member states, 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 is 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 that 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 trigger list 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 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 sanctions provisions in the Iran-Iraq Arms Non-Proliferation Act of 1992, as amended; the Export-Import Bank Act of 1945,

as amended; and the Nuclear Proliferation Prevention Act of 1994. No statutory sanctions determinations were reached during this reporting period. The administrative measures imposed against ten Russian entities for their nuclear- and/or missile-related cooperation with Iran remain in effect.

CHEMICAL AND BIOLOGICAL WEAPONS

The export control regulations issued under the Enhanced Proliferation Control Initiative (EPCI) remain fully in force and continue to be applied by the Department of Commerce, in consultation with other agencies, in order to control the export of items with potential use in chemical or biological weapons or unmanned 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 165 States Signatories as original States Parties. The United States was 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. To date, 126 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 the 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, including about 200 inspectors 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 challenge 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 weapons-related activities. The CWC'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 clandestine chemical weapons production and stockpiling more difficult, more risky, and more expensive.

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 Appropriation Act for Fiscal Year 1999 (Public Law 105–277). My Administration published 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. Submission of these declarations to the OPCW, and subsequent inspections, will enable the United States to be fully complaint 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 by the CWC from trading with States Parties in certain key chemicals. The relevant treaty provisions are specifically designed to penalize countries that refuse to join the rest of the world in eliminating the threat of chemical weapons.

The United States also 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 striving to complete a legally binding protocol to strengthen and enhance compliance with the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (the Biological Weapons Convention or BWC). This Ad Hoc Group was mandated by the September 1994 BWC Special Conference. The Fourth BWC Review Conference, held in November/December 1996, urged the AHG to complete the protocol 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.

On January 27, 1998, during the State of the Union address, I announced that the United States would take a leading role in 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 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 that all states adhering to these Conventions must take steps to ensure that their national activities support these goals. At the 1999 Plenary, the Group continued to focus on strengthening AG export controls and sharing information to address the threat of CBW terrorism. The AG also reaffirmed its commitment to continue its active outreach program of briefings for non-AG countries, and to promote regional consultations on export controls and non-proliferation to further awareness and understanding of national policies in these areas. The AG discussed ways to be more proactive in stemming attacks on the AG in the CWC and BWC contexts.

During the last 6 months, we continued to examine closely intelligence and other reports of trade in CBW-related material and technology that might be relevant to sanctions provisions under the Chemical and Biological Weapons Controls and Warfare Elimination Act of 1991. No new sanctions determinations were reached during this reporting period. The United States also continues to cooperate with its AG partners and other countries in stopping shipments of proliferation concern.

MISSILES FOR DELIVERY OF WEAPONS OF MASS DESTRUCTION

The United States continues carefully to control exports that could contribute to unmanned delivery systems for weapons of mass destruction, and closely to monitor activities of potential missile proliferation concern. We also continued to implement U.S. missile sanctions laws. In March 1999, we imposed missile sanctions against three Middle Eastern 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 supplier, consumer, and transshipment 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

RPOC, MTCR Partners held in-depth discussions of regional missile proliferation concerns, focusing in particular on Iran, North Korea, and South Asia. They also discussed steps Partners can take to further increase outreach to nonmembers. The Partners agreed to continue their discussion of this important topic at the October 1999 Noordwijk MTCR Plenary.

Also in June, the United States participated in a German-hosted MTCR workshop at which Partners and non-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 reformatting of the MTCR Annex. The newly reformatted Annex is intended to improve clarity and uniformity of implementation 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, on October 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, Partners gave special attention to DPRK missile activities and also discussed the threat posed by missile-related activities in South and North East Asia and the Middle East.

During this reporting period, the United States continued to work unilaterally and in coordination with its MTCR Partners to combat missile proliferation and to encourage nonmembers to export responsibly and to adhere to the MTCR Guidelines. To encourage international focus on missile proliferation issues, the USG also placed the issue on the agenda for the G8 Cologne Summit, resulting in an undertaking to examine further individual and collective means of addressing this problem and reaffirming commitment to the objectives of the MTCR. Since my last report, we continued our missile nonproliferation dialogues with China (interrupted after the accidental bombing of China's Belgrade Embassy), India, the Republic of Korea (ROK), North Korea (DPRK), and Pakistan. In the course of normal diplomatic relations we also have pursued such discussions with other countries in Central Europe, South Asia, and the Middle East.

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 development, testing, and exports. We also affirmed that the United States viewed further launches of long-range missiles and transfers of long-range missiles or technology for such missiles as direct threats to U.S. allies and ultimately to the United States itself. We subsequently have reiterated that message at every available opportunity. In particular, we have reminded the DPRK of the consequences of another rocket launch and encouraged it not to take such action. We also have urged the DPRK to take steps towards building a constructive bilateral relationship with the United States.

These efforts have resulted in an important first step. Since September 1999, it has been our understanding that the DPRK will refrain from testing long-range missiles of any kind during our discussions to improve relations. In recognition of this DPRK step, the United States has announced the easing of certain sanctions related to the import and export of many consumer goods.

In response to reports of continuing Iranian efforts to acquire sensitive items from Russian entities for use in Iran's missile and nuclear development programs, the United States continued its high-level dialogue with Russia aimed at finding ways the United States and Russia can work together to cut off the flow of sensitive goods to Iran's ballistic missile development program. During this reporting period, Russia's government created institutional foundations to implement a newly enacted nonproliferation policy and passed laws to punish wrongdoers. It also passed new export control legislation to tighten government control over sensitive technologies and began working with the United States to strengthen export control practices at Russian aerospace firms. However, despite the Russian government's nonproliferation and export control efforts, some Russian entities continued to cooperate with Iran's ballistic missile program and to engage in nuclear cooperation with Iran beyond the Bushehr reactor project. The administrative measures imposed on ten Russian entities for their missile- and nuclear-related cooperation with Iran remain in effect.

VALUE OF NONPROLIFERATION EXPORT CONTROLS

United States national export controls—both those implemented pursuant to multilateral nonproliferation regimes and those implemented unilaterally—play an important part in impeding the proliferation of WMD and missiles. (As used here, ''export controls'' refer to requirements for case-by-case review of certain exports, or limitations on exports of particular items of proliferation concern to certain destinations, rather than broad embargoes or economic sanctions that also affect trade.) As noted in this report, however, export controls are only one of a number of tools the United States uses to achieve its nonproliferation objectives. Global nonproliferation norms, informal multilateral nonproliferation regimes, interdicting shipments of proliferation concern, sanctions, export control assistance, redirection and elimination efforts, and robust U.S. military, intelligence, and diplomatic capabilities all work in conjunction with export controls as part of our overall nonproliferation strategy.

Export controls are a critical part of nonproliferation because every proliferant WMD/missile program seeks equipment and technology from other countries. Proliferators look overseas because needed items are unavailable elsewhere, because indigenously produced items are of insufficient quality or quantity, and/or because imported items can be obtained more quickly and cheaply than producing them at home. It is important to note that proliferators seek for their programs both items on multilateral lists (like gyroscopes controlled on the MTCR Annex and nerve gas ingredients on the Australia Group list) and unlisted items (like lower-level machine tools and very basic chemicals). In addition, many of the items of interest to proliferators are inherently dual-use. For example, key ingredients and technologies used in the production of fertilizers and pesticides also can be used to make chemical weapons; vaccine production technology (albeit not the vaccines themselves) can assist in the production of biological weapons.

The most obvious value of export controls is in impeding or even denying proliferators access to key pieces of equipment or technology for use in their WMD/missile programs. In large part, U.S. national export controls—and similar controls of our partners in the Australia Group, Missile Technology Control Regime, and Nuclear Suppliers Group—have denied proliferators access to the largest sources of the best equipment and technology. Proliferators have mostly been forced to seek less capable items from nonregime suppliers. Moreover, in many instances, U.S. and regime controls and associated efforts have forced proliferators to engage in complex clandestine procurements even from nonmember suppliers, taking time and money away from proliferant programs.

United States national export controls and those of our regime partners also have played an important leadership role, increasing over time the critical mass of countries applying nonproliferation export controls. For example, none of the following progress would have been possible without the leadership shown by U.S. willingness to be the first to apply controls: the seven-member MTCR of 1987 has grown

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 ''catch-all'' 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 MTCR 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) not to assist 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 our friends and 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 undercut'' 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 it more difficult 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 in part 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 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. 1641(c)), I report 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.

THE WHITE HOUSE, *November 10, 1999.*

MESSAGES FROM THE HOUSE

At 10:01 a.m., a message from the House of Representatives, delivered by Ms. Niland, 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 of 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. 1444. An act to authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, and Idaho.

H.R. 1714. An act to facilitate the use of electronic records and signatures in interstate or foreign commerce.

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. 3090. An act to amend the Alaska Native Claims Settlement Act to restore certain lands to the Elim 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.

H. Con. Res. 221. Concurrent resolution authorizing printing of the brochures entitled ''How Our Laws Are Made'' and ''Our American Government'', the pocket version of the United States Constitution, and the document-sized, annotated version of the United States Constitution.

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress regarding Freedom Day.

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. 335. An act to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to games of chance, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 10:50 a.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. 3061. 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 Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 76. 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.

At 4:38 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 78. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

The enrolled bills and joint resolutions were signed subsequently by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6124. 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 the Arms Export Control Act, a report relative to certification of a proposed license 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 Foreign Relations.

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 law, the report of a rule entitled ''Procedures for Netting Interest'' (Rev. Proc. 99–437), 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 ''Delivery of Prospectuses to Investors at the Same Address; Information to be Furnished to Security Holders; Annual Report to be Furnished Security Holders; Providing Copies of Material for Certain Beneficial Owners; Reports to Stockholders of Management Companies; Reports to Shareholders of Unit Investment Trusts'' (RIN3235–AG98), received November 8, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–6129. 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–074–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 (HMIWI); State of Nebraska'' (FRL #6473–8), 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 #6473–1), 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 ''Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Amendments to Air Pollution Control Regulation Number 9; Correction'' (FRL #6471–6), 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; 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 #6470–4), 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 Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County'' (FRL #6468–6), received November 2, 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 Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District'' (FRL #6470–6), received November 2, 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, a report entitled ''State Implementation Plans; Policy Regarding Excess Emissions During Malfunctions, Start-up, and Shutdown''; to the Committee on Environment and Public Works.

EC–6142. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, a report entitled ''1999 PCB Questions and Answers Manual (Part 2 of 3)''; to the Committee on Environment and Public Works.

EC–6143. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to meat 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 ''Zincphosphide; 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–99–981–3 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 ''Almonds Grown in California: Revisions to Requirements Regarding Credit for Promotion and Advertising Activities'' (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 ''Tart Cherries Grown in the States of Michigan, et al.; Decrease Assessment Rate'' (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 ''Walnuts Grown in California: Reporting Walnuts Grown Outside of the United States and Received by California Handlers'' (FV–99–984–2 FR), received November 3, 1999; 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 Assessment Rate'' (FV–99–966–1 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 ''Oranges, Grapefruit, Tangerines, and Tangeloes Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Seedless Grapefruit'' (FV–99–905–6 FR), received November 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

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 London Clearing House's 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.

EC–6154. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Imported Fire Ant; Quarantined Areas and Treatment Dosage'' (Docket #98–078–1), received November 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6155. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Citrus Canker Regulations'' (Docket #99–080–1), received November 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6156. A communication from the Deputy Under Secretary, Natural Resources and Environment, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Administration: Cooperative Funding'' (RIN0596–AB63), received November 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6157. A communication from the Acting Administrator, Farm Service Agency, Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Streamlining of Regulations for Real Estate and Chattel Appraisals'' (RIN0560–AF69), received November 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6158. A communication from the Acting Administrator, Farm Service Agency, Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''1999 Livestock Indemnity Program; 1998 Single-Year and Multi-Year Crop Loss Disaster Assistance Program'' (RIN0560–AF82), received November 3, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 216. A resolution designating the Month of November 1999 as ''National American Indian Heritage Month.''

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. MCCAIN for the Committee on Commerce, Science, and Transportation:

Joseph E. Brennan, of Maine, to be a Federal Maritime Commissioner for the term expiring June 30, 2003.

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. 1899. 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. JEFFORDS, Mr. MOYNIHAN, Mr. CLELAND, Mr. KERRY, 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, and Mrs. HUTCHISON):

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.

By Mr. KOHL (for himself and Mr. TORRICELLI):

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 Judiciary.

By Mrs. FEINSTEIN:

S. 1902. A bill to require disclosure under the Freedom of Information Act regarding certain persons and records of the Japanese Imperial Army in a manner that does not impair any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes; to the Committee on the Judiciary.

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.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1904. A bill to amend the Internal Revenue Code of 1986 to provide for an election for special tax treatment of certain S corporation conversions; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. DODD, Mr. TORRICELLI, Mr. LIEBERMAN, Mr. SCHUMER, and Mr. LAUTENBERG):

S. 1905. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to the Committee on Health, Education, Labor, and Pensions.

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 authority to sell certain aircraft for use in wildfire suppression, and for other purposes; to the Committee on Armed Services.

By Mr. DODD (for himself and Mr. KENNEDY) (by request):

S. 1907. A bill to prohibit employment discrimination against parents and those with parental responsibilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 1908. A bill to protect students from commercial exploitation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TORRICELLI:

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 acknowledgement of such injustices by the President; to the Committee on the Judiciary.

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.

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' claims arising from future catastrophic events; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. CRAPO, 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.

By Mr. FEINGOLD:

S. 1917. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

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.

By Mr. DODD (for himself and Mr. LEAHY):

S. 1919. A bill to permit travel to or from Cuba by United Staes citizens and lawful resident aliens of the United States; to the Committee on Foreign Relations.

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.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAHAM:

S. Res. 231. A resolution referring S. 1456 entitled ''A bill for the relief of Rocco A. Trecosta of Fort Lauderdale, Florida'' to the chief judge of the United States Court of Federal Claims for a report thereon; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 232. A resolution making changes to Senate committees for the 106th Congress; considered and agreed to.

By Mr. WELLSTONE:

S. Con. Res. 72. 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; to the Committee on Foreign Relations.

By Mr. LIEBERMAN:

S. Con. Res. 73. A concurrent resolution expressing the sense of the Congress regarding Freedom Day; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1899. 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 to 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.

THE FIREFIGHTER INVESTMENT AND RESPONSE ENHANCEMENT ACT OF 1999

Mr. CAMPBELL. Mr. President, today I am introducing legislation which would better equip our nation's firefighters to fight the ever-increasing threat of property destruction and potential loss of life.

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. 1168, 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 4,000 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 be injured due to fire. Financially, the impact of America's estimated 2.2 million fires annually is over $9 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 or 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 over 17 million calls, annually. 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. 1899

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 help 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 are 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 be a reference to the Federal Fire and Emergency Management Agency.

(c) CONFORMING AMENDMENTS TO FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974.—Sections 4(4), 17, and 31(a)(5)(B) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203(4), 2216, and 2227(a)(5)(B)) are amended by striking ''Federal Emergency Management Agency'' each place it appears and inserting ''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. 2201 et seq.) is amended by adding at the end the following:

''SEC. 33. 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.

''(2) ESTABLISHMENT OF OFFICE FOR ADMINISTRATION OF GRANTS.—Before making grants under paragraph (1), the Director shall establish an office in the Federal Fire and Emergency Management Agency that shall have the duties of establishing specific criteria for the selection of grant recipients, and administering the grants, under this section.

''(3) USE OF GRANT FUNDS.—The Director may make a grant under paragraph (1) only if the applicant for the grant agrees to use grant funds—

''(A)(i) to train firefighting personnel in firefighting, emergency response, arson prevention and detection, or the handling of hazardous materials, which shall include, at a minimum, the removal of any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine; or

''(ii) to train firefighter personnel to provide any of the training described in clause (i);

''(B) to make effective use of the capabilities of the National Institute of Standards and Technology, the Department of Commerce, the Consumer Product Safety Commission, and other public and private sector entities, for research and development aimed 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) to fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies;

''(D) to certify fire inspectors;

''(E) to establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel can carry out their duties;

''(F) to fund emergency medical services provided by fire departments;

''(G) to acquire additional firefighting vehicles, including fire trucks;

''(H) to acquire additional firefighting equipment, including equipment for communications and monitoring;

''(I) to acquire personal protective equipment required for firefighting personnel by the Occupational Safety and Health Administration, and other personal protective equipment for firefighting personnel;

''(J) to modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel;

''(K) to enforce fire codes;

''(L) to fund fire prevention programs; or

''(M) to educate the public about arson prevention and detection.

''(4) APPLICATION.—The Director may make a grant under paragraph (1) only if the fire department seeking the grant submits to the Director an application in such form and containing such information as the Director may require.

''(5) MATCHING REQUIREMENT.—The Director may make a grant under paragraph (1) only if the applicant for the grant agrees to match with an equal amount of non-Federal funds 10 percent of the funds received under paragraph (1) for any fiscal year.

''(6) MAINTENANCE OF EXPENDITURES—The Director may make a grant under paragraph (1) only if the applicant for the grant agrees to maintain in the fiscal year for which the grant will be received the applicant's aggregate expenditures for the uses described in paragraph (3) at or above the average level of such expenditures in the 2 fiscal years preceding the fiscal year for which the grant will be received.

''(7) REPORT TO THE DIRECTOR.—The Director may make a grant under paragraph (1) 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 received.

''(8) VARIETY OF GRANT RECIPIENTS.—The Director shall ensure that grants under paragraph (1) for a fiscal year are made to a variety of fire departments, including, to the extent 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.

''(9) LIMITATION ON EXPENDITURES 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).

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Director such sums as are necessary to carry out this section.

''(2) LIMITATION ON ADMINISTRATIVE COSTS.—Of the amounts made available under paragraph (1) for a fiscal year, the Director may use not more than 10 percent for the administrative costs of carrying out this section.''.

By Mr. LAUTENBERG (for himself, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. CLELAND, Mr. KERRY, 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, and Mrs. HUTCHISON):

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 in 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 whose jobs and lifestyles depend on efficient transportation.

Mr. President, I'm willing to bet that every Member of this Senate has at least one recent memory of a plane flight that went horribly wrong. Missed connections. Hours spent inside an overheated plane stuck on the tarmac. Lost baggage. I know I've had plenty of experiences like that.

And even when everything goes according to plan, air travel is uncomfortable at best. You almost have to know yoga just to cram yourself into one of those tiny seats.

Commuting by car isn't any better. Parts of Interstate 95 regularly turn into parking lots during week-day rush hours. And all this congestion can lead to truly life-threatening situations. Traffic accidents. Higher pollution levels. Explosions of road rage that actually lead people to pull guns on each other on the highway.

Land and financial resources are scarce 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 other 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 complete 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 to 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 traveling by plane. 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 airlines. And these delays are expensive. 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 643 million airplane 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 longer-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 should be able to benefit 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 overburdened aviation system will benefit from the rail investment called for in this legislation. I can tell you, as a former businessman who helped 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. TORRICELLI):

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 Judiciary.

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 TORRICELLI. This legislation addresses privacy protection by creating an expert 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 of high speed data, 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 uses. This is especially troubling 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 some 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 unlikely 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.

Because 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 to consider the issue of privacy 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 and resources, a ''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 and ensure balanced 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 back to Congress with its findings and proposals. 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 here with a political sleeper issue. People are getting wise to being 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 parties 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 previously cited material be printed in the RECORD.

There being no objection, the material 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 cash when you can. Do not give your phone number, social-security number or address, unless you absolutely have to. Do not fill in questionnaires or respond to telemarketers. Demand that credit 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 on roads. Never leave your mobile phone on—your movements can be traced. Do not use store credit or discount cards. If you must use the Internet, encrypt your e-mail, reject all ''cookies'' and never give your real name when registering at websites. 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 an increasingly wired world, people are continually creating information about themselves that is recorded and often sold or pooled with information from other sources. The goal of privacy advocates is not extreme. Anyone who took these precautions would merely be seeking a level of privacy available to all 20 years ago. And yet such behaviour now would seem obsessive and paranoid indeed.

That is a clue to how fast things have changed. To try to restore the privacy that was universal in the 1970s is to chase a chimera. Computer technology is developing so rapidly that it is hard to predict how it will be applied. But some trends are unmistakable. The volume of data recorded about people will continue to expand dramatically (see pages 21-23). Disputes about privacy will become more bitter. Attempts to restrain the surveillance society through new laws will intensify. Consumers will pay more for services that offer a privacy pledge. And the market for privacy-protection technology will grow.

Always observed

Yet there is a bold prediction: all these efforts to hold back the rising tide of electronic intrusion into privacy will fail. They may offer a brief respite for those determined, whatever the trouble or cost, to protect themselves. But 20 years hence most people will find that the privacy they take for granted today will be just as elusive as the privacy of the 1970s now seems. Some will shrug and say: ''Who cares? I have nothing to hide.'' But many others will be disturbed by the idea that most of their behaviour leaves a permanent and easily traceable record. People will have to start assuming that they simply have no privacy. This will constitute one of the greatest social changes of modern times.

Privacy is doomed for the same reason that it has been eroded so fast over the past two decades. Presented with the prospect of its loss, many might prefer to eschew even the huge benefits that the new information economy promises. But they will not, in practice, be offered that choice. Instead, each benefit—safer streets, cheaper communications, more entertainment, better government services, more convenient shopping, a wider selection of products—will seem worth the surrender of a bit more personal information. Privacy is a residual value, hard to define or protect in the abstract. The cumulative effect of these bargains—each attractive on their own—will be the end of privacy.

For a similar reason, attempts to protect privacy through new laws will fail—as they have done in the past. The European Union's data protection directive, the most sweeping recent attempt, gives individuals unprecedented control over information about themselves. This could provide remedies against the most egregious intrusions. But it is doubtful whether the law can be applied in practice, if too many people try to use it. Already the Europeans are hinting that they will not enforce the strict terms of the directive against America, which has less stringent protections.

Policing the proliferating number of databases and the thriving trade in 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 more 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 is destroying privacy also 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, opting out of information-gathering is bound to become ever harder and less attractive. If most urban streets are monitored by intelligent video cameras that can identify criminals, who will want to live on a street without one? If most people carry their entire medical history on a plastic card that the emergency services come to rely on, a refusal to carry the card could be life-threatening. To get a foretaste of what is to come, try 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 except the rich enjoyed much privacy. To earlier generations, escaping the claustrophobic all-knowingness of a village for the relative anonymity of the city was one of the more liberating aspects 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 uncomfortable. But the best advice may be: get used to it.

THE SURVEILLANCE SOCIETY

New information technology offers huge benefits—higher productivity, better crime prevention, improved medical care, dazzling entertainment, more convenience. But it comes at a price: less and less privacy

''The right to be left alone.'' For many this phrase, made famous by Louis Brandeis, an American Supreme Court justice, captures the essence of a notoriously slippery, but crucial concept. Drawing the boundaries of privacy has always been tricky. Most people have long accepted the need to provide some information about themselves in order to vote, work, shop, pursue a business, socialise or even borrow a library book. But exercising control over who knows what about you has also come to be seen as an essential feature of a civilised society.

Totalitarian excesses have made ''Big Brother'' one of the 20th century's most frightening bogeyman. Some right of privacy, however qualified, has been a major difference between democracies and dictatorships. An explicit right to privacy is now enshrined in scores of national constitutions as well as in international human-rights treaties. Without the ''right to be left alone,'' to shut out on occasion the prying eyes and importunities of both government and society, other political and civil liberties seem fragile. Today most people in rich societies assume that, provided they obey the law, they have a right to enjoy privacy whenever it suits them.

They are wrong. Despite a raft of laws, treaties and constitutional provisions, privacy has been eroded for decades. This trend is now likely to accelerate sharply. The cause is the same as that which alarmed Brandeis when he first popularized his phrase in an article in 1890; technological change. In his day it was the spread of photography and cheap printing that posed the most immediate threat to privacy. In our day it is the computer. The quantity of information that is now available to governments and companies about individuals would have horrified Brandeis. But the power to gather and disseminate data electronically is growing so fast that it raises an even more unsettling question: in 20 years' time, will there be any privacy left to protect?

Most privacy debates concern media intrusion, which is also what bothered Brandeis. And yet the greatest threat to privacy today comes not from the media, whose antics affect few people, but from the mundane business of recording and collecting an ever-expanding number of everyday transactions. Most people know that information is collected about them, but are not certain how much. Many are puzzled or annoyed by unsolicited junk mail coming through their letter boxes. And yet junk mail is just the visible tip of an information iceberg. The volume of personal data in both commercial and government databases has grown by leaps and bounds in recent years along with advances in computer technology. The United States, perhaps the most computerized society in the world, is leading the way, but other countries are not far behind.

Advances in computing are having a twin effect. They are not only making it possible to collect information that once went largely unrecorded, but are also making it relatively easy to store, analyze and retrieve this information in ways which, until quite recently, were impossible.

Just consider the amount of information already being collected as a matter of routine—any spending that involves a credit or

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 discount 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 and traffic-monitoring systems can record the movement of individual vehicles. Pioneered in Britain, closed-circuit tv cameras now scan increasingly large swathes of urban landscapes in other countries too. The trade in consumer information has hugely expanded in the past ten years. One single company, Acxiom Corporation in Conway, Arkansas, has a database combining public and consumer information that covers 95% of American households. Is there anyone left on the planet who does not know that their use of the Internet is being recorded by somebody, somewhere?

Firms are as interested in their employees as in their customers. A 1997 survey by the American Management Association of 900 large companies found that nearly two-thirds admitted to some form of electronic surveillance of their own workers. Powerful new software makes it easy for bosses to monitor and record not only all telephone conversations, but every keystroke and e-mail message as well.

Information is power, so its hardly surprising that governments are as keen as companies to use data-processing technology. They do this for many entirely legitimate reasons—tracking benefit claimants, delivering better health care, fighting crime, pursuing terrorists. But it inevitable means more government surveillance.

A controversial law passed in 1994 to aid law enforcement requires telecoms firms operating in America to install equipment that allows the government to intercept and monitor all telephone and data communications, although disputes between the firms and the FBI have delayed its implementation. Intelligence agencies from America, Britain, Canada, Australia and New Zealand jointly monitor all international satellite-telecommunications traffic via a system called ''Echelon'' that can pick specific words or phrases from hundreds of thousands of messages.

America, Britain, Canada and Australia are also compiling national DNA databases of convicted criminals. Many other countries are considering following suit. The idea of DNA databases that cover entire populations is still highly controversial, but those databases would be such a powerful tool for fighting crime and disease that pressure for their creation seems inevitable. Iceland's parliament has agreed a plan to sell the DNA database of its population to a medical-research firm, a move bitterly opposed by some on privacy grounds.

To each a number

The general public may be only vaguely aware of the mushrooming growth of information-gathering, but when they are offered a glimpse, most people do not like what they see. A survey by America's Federal Trade Commission found that 80% of Americans are worried about what happens to information collected about them. Skirmishes between privacy advocates and those collecting information are occurring with increasing frequency.

This year both intel and Microsoft have run into a storm of criticism when it was revealed that their products—the chips and software at the heart of most personal computers—transmitted unique identification numbers whenever a personal-computer user logged on to the Internet. Both companies hastily offered software to allow users to turn the identifying numbers off, but their critics maintain that any software fix can be breached. In fact, a growing number of electronic devices and software packages contain identifying numbers to help them interact with each other.

In February an outcry greeted news that image Data, a small New Hampshire firm, had received finance and technical assistance from the American Secret Service to build a national database of photographs used on drivers' licenses. As a first step, the company had already bought the photographs of more than 22m drivers from state governments in South Carolina, Florida and Colorado. Image Data insists that the database, which would allow retailers or police across the country instantly to match a name and photograph, is primarily designed to fight cheque and credit-card fraud. But in response to more than 14,000 e-mail complaints, all three state moved quickly to cancel the sale.

It is always hard to predict the impact of new technology, but there are several developments already on the horizon which, if the recent past is anything to go by, are bound to be used for monitoring of one sort or another. The paraphernalia of snooping, whether legal or not, is becoming both frighteningly sophisticated and easily affordable. Already, tiny microphones are capable of recording whispered conversations from across the street. Conversations can even be monitored from the normally imperceptible vibrations of window glass. Some technologists think that the tiny battlefield reconnaissance drones being developed by the American armed forces will be easy to commercialize. Small video cameras the size of a large wasp may some day be able to fly into a room, attach themselves to a wall or ceiling and record everything that goes on there.

Overt monitoring is likely to grow as well. Intelligent software systems are already able to scan and identify individuals from video images. Combined with the plummeting price and size of cameras, such software should eventually make video surveillance possible almost anywhere, at any time. Street criminals might then be observed and traced with ease.

The burgeoning field of ''biometrics'' will make possible cheap and fool-proof systems that can identify people from their voices, eyeballs, thumbprints or any other measurable part of their anatomy. That could mean doing away with today's cumbersome array of security passes, tickets and even credit cards. Alternatively, pocket-sized ''smart' cards might soon be able to store all of a person's medical or credit history, among other things, together with physical data needed to verify his or her identity.

In a few years' time utilities might be able to monitor the performance of home appliances, sending repairmen or replacements even before they break down. Local supermarkets could check the contents of customers' refrigerators, compiling a shopping list as they run out of supplies of butter, cheese or milk. Or office workers might check up on the children at home from their desktop computers.

But all of these benefits, from better medical care and crime prevention to the more banal delights of the ''intelligent'' home, come with one obvious drawback—an ever-widening trail of electronic data. Because the cost of storing and analysing the data is also plummeting, almost any action will leave a near-permanent record. However ingeniously information-processing technology is used, what seems certain is that threats to traditional notions of privacy will proliferate.

This prospect provokes a range of responses, none of them entirely adequate. More laws. Brandeis's article was a plea for a right to sue for damages against intrusions of privacy. It spawned a burst of privacy statutes in America and elsewhere. And yet privacy lawsuits hardly ever succeed, except in France, and even there they are rare. Courts find it almost impossible to pin down a precise enough legal definition of privacy.

America's consumer-credit laws, passed in the 1970s, give individuals the right to example their credit records and to demand corrections. The European Union has recently gone a lot further. The EU Data Protection directive, which came into force last October, aims to give people control over their data, requiring ''unambiguous'' consent before a company or agency can process it, and barring the use of the data for any purpose other than that for which it was originally collected. Each EU country, is pledged to appoint a privacy commissioner to act on behalf of citizens whose rights have been violated. The directive also bars the export of data to countries that do not have comparably stringent protections.

Most EU countries have yet to pass the domestic laws needs to implement the directive, so it is difficult to say how it will work in practice. But the Americans view it as Draconian, and a trade row has blown up about the EU's threat to stop data exports to the United States. A compromise may be reached that enables American firms to follow voluntary guidelines; but that merely could create a big loophole. If, on the other hand, the EU insist on barring data exports, not only might a trade war be started but also the development of electronic commerce in Europe could come screeching to a complete halt, inflicting a huge cost on the EU's economy.

In any case, it is far from clear what effect 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 may give individuals a valuable tool to fight against some of the worst abuses, rather on the pattern of consumer-credit laws. But, also as with those laws—and indeed, with government freedom of information laws in general—individuals will have to be determined and persistent to exercise their rights. Corporate and government officials can often find ways to delay or evade individual requests for information. Policing the rising tide of data collection and trading is probably beyond the capability of any government without a crackdown so massive that it could stop the new information economy in its tracks.

Market solutions. The Americans generally prefer to rely on self-regulation and market pressures. Yet so far, self-regulation has failed abysmally. A Federal Trade Commission survey of 1,400 American Internet sites last year found that only 2% had posted a privacy policy in line with that advocated by the commission, although more have probably done so since, not least in response to increased concern over privacy. Studies of members of America's Direct Marketing Association by independence researchers have found that more than half did not abide even by the association's modest guidelines.

If consumers were to become more alarmed about privacy, however, market solutions could offer some protection. The Internet, the frontline of the privacy battle-field, has already spawned anonymous remailers, firms that forward e-mail stripped of any identifying information. One website (www.anonymizer.com) offers anonymous Internet browsing. Electronic digital cash, for use or off the Internet, may eventually provide some anonymity but, like today's physical cash, it will probably be used only for smaller purchases.

Enter the infomediary

John Hagel and Marc Singer of McKinsey, a management consulting firm, believe that from such services will emerge ''informediaries'', 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. If consumers were willing to pay for such brokerage, infomediaries might succeed on the Internet. Such firms would have the strongest possible stake in maintaining their 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 infomediary. 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—to—or keep—this pledge. Consumers who want privacy must be ever vigilant, which is more than most can manage. Even those companies which advertise that they will 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 informediaries, are unlikely to be able to deal with growing government databases 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 interests 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 can only ever be 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 technological deluge, David Brin, an American physicist and science-fiction writer, proposes a radical alternative—its complete abolition. In his book ''The Transparent Society'' (Addision-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. Every citizen should be able to tap into any database, corporate or governmental, containing personal information. Images from the video-surveillance cameras on city streets 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. Transparency 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 or workers. Simple deterrence would then encourage restraint in information gathering—and maybe even more courtesy.

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 or medical files? Criminals 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 making privacy into a crime seems outlandish.

There is unlikely to be a single answer to the dilemma posed by the conflict between privacy and the 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 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.

NOSY PARKER LIVES

[William Safire, Washington]

A state sells its driver's license records to a stalker; he selects his victim—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 owner 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 browser sells the records of a nettie's searches to a lawyer's private investigator, who uses ''cookie''-generated evidence against the nettie 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 enables motorists to ''opt out''—to direct that information about them not be sold for commercial purposes.

But even that opt out puts the burden of protection on the potential victim, and most people are too busy or lazy to initiate self-protection. Far more effective would be what privacy advocates call opt in—requiring the state or business to request permission of individual customers before selling their names to practioners of ''target marketing.''

In practical terms, the difference between opt in and opt out is the difference between a door locked with a bolt and a door left ajar. But in a divided appeals court—under the strained rubric of commercial free speech—the intrusive telecommunications giant US West won. Its private customers and the public are the losers.

Corporate mergers and technologies of E-commerce and electronic surveillance are pulverizing the walls of personal privacy. Belatedly, Americans are awakening to their new nakedness as targets of marketers.

Your bank account, you health record, your genetic code, your personal and shopping habits and sexual interests are your own business. That information has a value. If anybody wants to pay for an intimate look inside your life, let them make you an offer and you'll think about it. That's opt in. You may decide to trade the desired information about yourself for services like an E-mail box or stock quotes or other inducement. But require them to ask you first.

We are dealing here with a political sleeper issue. People are getting wise to being secretly examined and manipulated and it rubs them the wrong way.

Politicians sense that a strange dissonance is agitating their constituents. But most are leery of the issue because it cuts across ideologies and party lines—not just encrypted communication versus national security, but personal liberty versus the free market.

That's why there has been such Sturm und Drang around the Financial Services Act of 1999. Most pols think it is bogged down only because of a turf war between the Treasury and the Fed over who regulates the new bank-broker-insurance mergers. It goes deeper.

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 Senate-House conference, Republican Richard Shelby of Alabama (who already toughened drivers' protection at the behest of Phyllis Schlafly's Eagle Forum and the A.C.L.U.) is pressing for the House version. '''Opt out' is weak,'' Shelby tells me, ''but it's a start.''

The groundswelling resentment is in search of a public champion. The start will gain momentum when some Presidential candidate seizes the sleeper issue of the too-targeted consumer. Laws need not always be the answer: to avert regulation, smart businesses will complete to assure customers' right to decide.

The libertarian principle is plain: excepting legitimate needs of law enforcement and 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

[Oct. 22, 1999—Wall Street Journal]

Congress has been paddling 20 years to get a financial-service overhaul bill, and now the canoe threatens to run aground on one of those imaginary concerns that only sounds good in press release—''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 to alleviate some of them. If a single company were allowed 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 efficiently within a single company to serve customers. Yet to Mr. Shelby, this is a predatorial act.

He's demanding language that would mean a Citigroup banker, say, couldn't tell a Citigroup insurance agent that Mr. Jones is a hot insurance prospect—unless Mr. Jones gives his permission in writing first. Mr. Shelby threatens to withhold his crucial

unless this deal-breaker is written into the law.

To inflict this inconvenience on Mr. Jones is weird enough: He has already volunteered to have a relationship with Citigroup. But even weirder is the urge to cripple a law whose whole purpose is to modernize an industry structure that forces consumers today to chase six different companies around to get a full mix of financial services. In essence, financial products all do the same thing: shift income in time. You want to go to college now based on your future earnings, so you take out a loan. You want to retire in 20 years based on your present earnings, so you get an IRA. And if a single cry goes up from modern man, it's ''Simplify my life.''

A vote last Friday seemed, 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 gnats 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.'' Well, duh. Consumers don't want their information made available indiscriminately to strangers. But putting up barriers to free exchange inside a company that a customer already has chosen to do business with is a farfetched 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. Maybe he's just confused, but it 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 AND USER PRIVACY

[By John Markoff, New York Times, March 3, 1999]

San Francisco, March 2—The Intel Corporation recently blinked in a confrontation with privacy advocates protesting the company's plans to ship its newest generation of microprocessors with an embedded serial number that could be used to identify a computer—and by extension its user.

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, everyday 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 systems and networks 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 the specter of a new surveillance society 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 potential 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 news conference held to introduce the company's newest software, known as Jini, intended to interconnect virtually all types of electronic devices from computer to cameras. Privacy advocates contend that software like Jini, which assigns an identification number to each device each time it connects to a network, could be misused as networks envelop almost everyone in society in a dense web of devices that see, hear, and monitor behavior and location.

''Once information becomes available for one purpose there is always 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 the computer user can conceal, the numbers used by the Microsoft programs—found in millions of personal computers—cannot be controlled by the user.

The programmer, Richard M. Smith, president of Phar Lap Software, a developer of computer programming tools in Cambridge, Mass., noticed that the Windows operating system contains a unique registration number stored on each personal computer in a small data base known as the Windows registry.

His curiosity aroused, Mr. Smith investigated further and found that the number that uniquely identifies his computer to the network used in most office computing systems, known as the Ethernet, was routinely copied to, each Microsoft Word or Excel document he created.

The number is used to create a longer number, known as a globally unique identifier. It is there, he said, to enable computer users to create sophisticated documents comprising work processing, spreadsheet, presentation and data base information.

Each of those components in a document needs a separate identity, and computer designers have found the Ethernet number a convenient and widely available identifier, he said. But such universal identifiers are of particular concern to privacy advocated because they could be used to compile information on individuals from many data bases.

''The infrastructure relies a lot on serial numbers,'' Mr. Smith said. ''We've let the genie out of the bottle.''

Jeff Ressler, a Microsoft product manager, said that if a computer did not have an Ethernet adapter then another identifying number was generated that was likely to be unique. ''We need a big number, which is a unique identifier,'' he said. ''If we didn't have, it would be impossible to make our software programs work together across networks.''

Indeed, an increasing range of technologies have provisions for identifying their users for either technical reasons (such as connecting to a network) or commercial ones (such as determining which ads to show to Web surfers). But engineers and network designers argue that identify information is a vital aspect of modern security design because it is necessary to authenticate an individual in a network, thereby preventing fraud or intrusion.

Last month at the introduction of Intel's powerful Pentium III chip, Intel executives showed more than a dozen data security uses for the serial number contained electronically in each of the chips, ranging from limiting access to protecting documents or software against piracy.

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 processors for the consumer market 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 participants in electronic chat rooms on the Internet and thereby, for example, protect children from Internet stalkers.

But in achieving those goals, it would also create a universal identifier, which could be used by software applications to track computer users wherever they surfed on the World Wide Web. And that, 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 it possible for marketers or Government and law enforcement officials to track the activities of anyone connected to a computer network more closely. They also say that such a permanent identifier could be used in a similar fashion to 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 generally put industry's executives on the defensive. Now questions are being raised about whether there should be limits to privacy in an Inernet era.

''Judge 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 naive and have failed to understand that all devices connected to computer networks 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 most widely in office settings, 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 to the local 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 networks require identify numbers to protect against fraud. Each cellular telephone currently has two numbers: the telephone number, which can easily be changed, and an electronic serial number, which is permanently put in place at the factory to protect against theft or fraud.

The serial number is accessible to the cellular telephone network, and as cellular telephones add Internet browsing and E-mail capabilities, it will potentially have the same

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 communications and computing becomes increasingly blurred, every electronic device will require some kind of identification to attach to the network

Making those numbers available to networks that need to pass information or to find a mobile user while at the same time denying the information to those who wish to gather information into vast data bases may be an impossible task.

Privacy advocates argue that even if isolated numbers look harmless, they are actually harbingers of a trend toward ever 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 ever more invasive hardware modifications to keep track of individuals. Already they point to the 1994 Communications Assistance for Law Enforcement Act, which requires that telephone companies modify their network switches to make it easier for Government wiretappers.

Also, the Federal Communications Commission is developing regulations that will require every cellular telephone to be able to report its precise location for ''911'' emergency calls. Privacy groups are worried that this feature will be used as a tracking technology by law enforcement officials.

''The ultimate danger is that the Government will mandate that each chip have special logic added'' to track identifies in cyberspace, said Vernor Vinge, a computer scientist 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 fiction novel in the early 1980's, that forecast a world in which anonymity in computer networks is illegal.

Intel executives insist that their chip is being misconstrued by privacy groups.

''We're going to start building security architecture into our chips, and this is the first step,'' said Pat Gelsinger, Intel vice president and general manager of desktop products. ''The discouraging part of this is our objective is to accomplish privacy.

That quandry—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 providing security while at the same time offering anonymity has long been a technical and a political challenge.

''We need to find ways to distinguish between security and identity,'' said James X. Dempsey, a privacy expert at the Center for Democracy and Technology, a Washington lobbying organization.

So far the prospects are not encouraging. One technical solution developed by a cryptographer, David Chaum, made it possible for individuals to make electronic cash payments anonymously in a network.

In the system Mr. Chaum designed, a user employs a different number with each organization, thereby insuring that there is no universal tracking capability.

But while Mr. 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 industry consultant. ''Those who are interested in privacy don't want to pay for it.''

PRIVACY ISN'T DEAD YET

[By Amitai Etzioni]

It seems self-evident that information about your shoe size does not need to be as well guarded as information about tests ordered by your doctor. But with the Federal and state governments' piecemeal approach to privacy protection, if we release information about one facet of our lives, we inadvertently expose much about the others.

During Senate hearings in 1987 about 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 Social Security Administration (but hardly anybody else) from releasing our Social Security numbers. Still other laws limit what states can do with information that we provide to motor vehicle departments.

Congress is now seeking to add some more panels to this crazy quilt of narrowly drawn privacy laws. The House recently endorsed a bill to prohibit banks and securities and insurance companies owned by the same parent corporation from sharing personal medical information. And Congress is grappling with laws to prevent some information about our mutual-fund holdings from being sold and bought as freely as hot dogs.

But with superpowerful computers and vast databases in the private sector, personal information can't be segmented in this manner. For example, in 1996, a man in Los Angeles got himself a store card, which gave him discounts and allowed the store to trace what he purchased. After injuring his knee in the store, he sued for damages. He was then told that if he proceeded with his suit the store would use the fact that he bought a lot of liquor to show that he must have fallen because he was a drunkard.

Some health insurers try to ''cherry pick'' their clients, seeking to cover only those who are least likely to have genetic problems or contract costly diseases like AIDS. Some laws prohibit insurers from asking people directly about their sexual orientation. But companies sometimes refuse to insure those whose vocation (designer?), place of residence (Greenwich Village?) and marital status (single at 40-plus?) suggest that they might pose high risks.

Especially comprehensive privacy invaders are ''cookies''—surveillance files that many marketers implant in the personal computers of people who visit their Web sites to allow the marketers to track users' preferences and transactions. Cookies, we are assured, merely inform marketers about our wishes so that advertising can be better directed, sparing us from a flood of junk mail.

Actually, by tracing the steps we take once we gain a new piece of information, cookies reveal not only what we buy (a thong from Victoria's Secret? Antidepressants?) but also how we think. Nineteen eighty-four is here courtesy of Intel, Microsoft and quite a few other corporations.

All this has led Scott McNealy, the chairman and chief executive of Sun Microsystems, to state, ''You already have zero privacy—get over it.'' This pronouncement of the death of privacy is premature, but we will be able to keep it alive only if we introduce general, all-encompassing protections over segmented ones.

Some cyberspace anonymity can be provided by new technologies like anti-cookie programs and encryption software that allow us to encrypt all of our data. Corporate self-regulation can also help. I.B.M., for example, said last week that it would pull its advertising from Web sites that don't have clear privacy policies. Other companies like Disney and Kellogg have voluntarily agreed not to collect information about children 12 or younger without the consent of their parents. And some new Government regulation of Internet commerce may soon be required, if only because the European Union is insisting that any personal information about the citizens of its member countries cannot be used without the citizen's consent.

Especially sensitive information should get extra protection. But such selective security can work only if all the other information about a person is not freely accessible elsewhere.

A MIDDLE GROUND IN THE PRIVACY WAR?

[By John Schwartz—March 29, 1999]

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 right? Amitai Etzioni, a professor at 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 golden rule is as important as the rule of law, and the notion that ''he who has the gold makes the rules'' does not apply.

What does all that have to do with privacy? 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 voices to carry across it. So Etzioni comes in with a theme not often heard, that middle of the road that Hightower hates so much.

What he wants to do is to forge a new privacy doctrine that protects the individual from snooping corporations and irresponsible government, but cedes individual privacy rights when public health and safety are at stake—''a balance between rights and the common good,'' he writes.

In the book, Etzioni tours a number of major privacy issues, passing judgment as he goes along. Pro-privacy decisions that prohibited mandatory testing infants for HIV, for example, take the concept too far and put children at risk, he says. Privacy advocates' campaigns against the government's attempts to wiretap and unscramble encrypted messages, he says, are misguided in the face of the evil that walks the planet.

The prospect of some kind of national ID system, which many privacy advocates view as anathema, he finds useful for catching criminals, reducing fraud and ending the crime of identity theft. The broad distribution of our medical records for commercial gain, however, takes too much away from us for little benefit to society.

I called Etzioni to ask about his book. He said civil libertarians talk about the threat of government intrusion into our lives, and government talks about the threat of criminals, but that the more he got into his research, the more it seemed that the two

sides were missing ''the number one enemy—it's a small group of corporations that have more information about us than the East German police ever had about the Germans.''

He's horrified, for example, 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 reject the notions that led to a constitutional right of privacy, best expressed in the landmark 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 interpretation of a curious amalgam of sundry pieces of various constitutional rights,'' and says we need only look to the simpler balancing act we've developed 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 cyberpunk dream of a world 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 acknowledgements in his book, warm thanks to Marc Rotenberg, who heads the Electronic Privacy Information Center. Rotenberg is about as staunch a privacy advocate as I know, and I can't imagine him finding much common ground with Etzioni—but Etzioni told me that ''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 deeply respects Etzioni, but can't find much in the book to agree with. For all the talk of balance, he say, ''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 have been unable to come up with solutions to the privacy challenges that new business practices and new technologies are creating,'' Rotenberg told me.

The way to reach answers, he suggested, is 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 fuzzier 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 trademark civility he brings to it, and for the dialogue he will spark.

Mr. TORRICELLI. Mr. President, I rise today to introduce the Privacy Protection Study Commission Act of 1999 with my colleague, Senator KOHL. This legislation creates a Commission to comprehensively examine privacy concerns. This Commission will provide Congress with information to facilitate our decision making regarding how to best address individual privacy protections.

The rise in the use of information technology—particularly the Internet, has led to concerns regarding the security of personal information. As many as 40 million people around the world have the ability to access the Internet. The use of computers for personal and business transactions has resulted in the availability of vast amounts of financial, medical and other information in the public domain. Information about online users is also collected by Web sites through technology which tracks an individual's every interaction with the Internet.

Despite the ease of availability of personal information, the United States is one of the few countries in the world that does not have comprehensive legal protection for personal information. This is in part due to differences in opinion regarding the best way to address the problem. While some argue that the Internet's size and constantly changing technology demands government and industry self-regulation, others advocate for strong legislative and regulatory protections. And, still others note that such protections, although necessary, could lead to unconstitutional consequences if drafted without a comprehensive understanding of the issue. As a result, congressional efforts to address privacy concerns have been patchwork in nature.

This is why Senator KOHL and I are proposing the creation of a Commission with the purpose of thoughtfully considering the range of issues involved in the privacy debate and the implications of self-regulation, legislation, and federal regulation. The Commission will be comprised of experts in the fields of law, civil rights, business, and government. After 18 months, the Commission will deliver a report to Congress recommending the necessary legislative protections are needed. The Commission will have the authority to gather 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 Senator KOHL and myself in our efforts to gain a better understanding of it. Senator KOHL and I look forward to working with all those interested in furthering this debate and giving Americans a greater sense of confidence in the security of their personal information.

By Mrs. FEINSTEIN:

S. 1902. A bill to require disclosure under the Freedom of Information Act regarding certain persons and records of the Japanese Imperial Army in a manner that does not impair any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes; to the Committee on the Judiciary.

JAPANESE IMPERIAL ARMY DISCLOSURE ACT OF 1999

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Japanese Imperial Army Disclosure Act of 1999.

This legislation will require the disclosure under the Freedom of Information Act classified records and documents in the possession of the U.S. Government regarding chemical and biological experiments carried out by Japan 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 legislation should be considered anti-Japanese. I was proud to serve as the President of the Japan Society of Northern California, and I have done everything I can to foster, promote, and develop positive relations between Japan, the United States, China, and other states of the region. The legislation I introduce today is eagerly sought by a large number of Californians who believe that there is an effort to keep information about possible atrocities and experiments with poisonous gas and germ warfare from the pubic record.

One of my most important goals in the Senate is to see the development of a Pacific Rim community that is peaceful and stable. I have worked towards this end 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 although the Second World War ended over fifty years ago—and with it Japan'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. Government archives and repositories. Even worse, according to some scholars, some of these records are now being inadvertently destroyed.

For the many U.S. Army veteran's who were subject 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 incident'' provided Japan the pretext for the occupation of Manchuria, the Japanese Imperial Army conducted numerous biological and chemical 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

grounds, prisons to hold the human test subjects, facilities to make germ weapons, and a crematorium for the final disposal of the human test victims. General Ishii's main factory operated under the code name Unit 731.

Based on the evidence revealed at the War Crimes trials, as well as subsequent work by numerous scholars, there is little doubt that Japan conducted these chemical and biological warfare experiments, and that the Japanese Imperial Army attempted to use chemical and biological weapons during the course of the war, included reports of use of plague on the cities of Ningbo and Changde.

And, as a 1980 article by John Powell in the Bulletin of Concerned Asia Scholars found,

> Once the fact had been established that Ishii had used Chinese and others as laboratory tests subjects, it seemed a fair assumption that he also might have used American prisoners, possibly British, and perhaps even Japanese.

Some of the records of these activities were revealed during the Tokyo War Crimes trials, and others have since come to light under Freedom of Information Act requests, but many other documents, which were transferred to the U.S. military during the occupation of Japan, have remained hidden for the past fifty years.

And it is precisely for this reason that this legislation is needed: The world is entitled to a full and compel record of what did transpire.

Sheldon Harris, Professor of History Emeritus at California State university Northridge wrote to me on October 7 of this year that:

> In my capacity as an academic Historian, I can testify to the difficulty researchers have in unearthing documents and personal testimony concerning these war crimes * * *. Here in the United States, despite the Freedom of Information Act, some archives remain closed to investigators * * *. Moreover, ''sensitive documents—as defined by archivists and FOIA officers—are at the moment being destroyed.

Professor Sheldon's letter goes on to discuss three examples of the destruction of documents relating to chemical and biological warfare experiments that he is aware of: At Dugway Proving Grounds in Utah, at Fort Detrick in Maryland, and at the Pentagon.

This legislation establishes, within 60 days after the enactment of the act, the Japanese Imperial Army Records Interagency Working Group, including representation by the Department of State and the Archivist of the United States, to locate, identify, and recommend for declassification all Japanese Imperial Army records of the United States.

This Interagency Work Group, which will remain in existence for three years, is to locate, identify, inventory, recommend for classification, and make available to the public all classified Imperial Army records of the United States. It is to do so in coordination with other agencies, and to submit a report to Congress describing its activities.

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 expeditious 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 national 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 adage ''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 century, and work together 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, professed neutral nations like Sweden and Switzerland have had the courage to take a painful look back at their 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:

GRANADA HILLS, CA,
October 7, 1999.

Hon. SENATOR DIANNE FEINSTEIN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: Several Asian American activists organizations in California, and organizations representing former Prisoners of War and Internees of the Japanese Imperial Army, have indicated to me that you are proposing to introduce legislation into the United States Senate that calls for full disclosure by the United States Government of records it possesses concerning war crimes committed by members of the Japanese Imperial Army. I endorse such legislation enthusiastically.

My support for the full disclosure of American held records relating to the Japanese Imperial Army's wartime crimes against humanity is both personal and professional. I am aware of the terrible suffering members of the Imperial Japanese Army imposed upon innocent Asians, prisoners of war of various nationalists and civilian internees of Allied nations. These inhumane acts were condoned, if not ordered, by the highest authorities in both the civilian and military branches of the Japanese government. As a consequence, millions of persons were killed, maimed, tortured, or experienced acts of violence that included human experiments relating to biological and chemical warfare research. Many of these actions meet the definition of ''war crimes'' under both the Potsdam Declaration and the various Nuremberg War Crimes trials held in the post-war period.

I am the author of ''Factories of Death, Japanese Biological Warfare, 1932–45, and the American Cover-up'' (Routlege: London and New York; hard cover edition 1994; paperback printings, 1995, 1997, 1998, 1999). I discovered in the course of my research for this book, and scholarly articles that I published on the subject of Japanese biological and chemical warfare preparations, that members of the Japanese Imperial Army Medical Corps committed heinous war crimes. These included involuntary laboratory tests of various pathogens on humans—Chinese, Korean, other Asian nationalities, and Allied prisoners of war, including Americans. Barbarous acts encompassed live vivisections, amputations of body parts (frequently without the use of anesthesia), frost bite exposure to temperatures of 40–50 degrees Fahrenheit below zero, injection of horse blood and other animal blood into humans, as well as other horrific experiments. When a test was completed, the human experimented was ''sacrificed'', the euphemism used by Japanese scientists as a substitute term for ''killed.''

In my capacity as an academic Historian, I can testify to the difficulty researchers have in unearthing documents and personal testimony concerning these war crimes. I, and other researchers, have been denied access to military archives in Japan. These archives cover activities by the Imperial Japanese Army that occurred more than 50 years ago. The documents in question cannot conceivably contain information that would be considered of importance to ''National Security'' today. The various governments in Japan for the past half century have kept these archives firmly closed. The fear is that the information contained in the archives will embarrass previous governments.

Here in the United States, despite the Freedom of Information Act, some archives remain closed to investigators. At best, the archivists in charge, or the Freedom of Information Officer at the archive in question, select what documents they will allow to become public. This is an unconscionable act of arrogance and a betrayal of the trust they have been given by the Congress and the

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 that can shed some light on the terrible atrocities committed by Japanese militarists in the past.

Three examples of this wanton destruction should be sufficiently illustrative of the dangers that exist, and should reinforce the obvious necessity for prompt passage of legislation you propose to introduce into the Congress:

1. In 1991, the Librarian at Dugway Proving Grounds, Dugway, Utah, denied me access to the archives at the facility. It was only through the intervention of then U.S. Representative Wayne Owens, Dem., Utah, that I was given permission to visit the facility. I was not shown all the holdings relating to Japanese medical experiments, but the little I was permitted to examine revealed a great deal of information about medical war crimes. Sometimes after my visit, a person with intimate knowledge of Dugway's operations, informed me that ''sensitive'' documents were destroyed there as a direct result of my research in their library.

2. I conducted much of my American research at Fort Detrick in Frederick, Md. The Public Information Officer there was extremely helpful to me. Two weeks ago I telephoned Detrick, was informed that the PIO had retired last May. I spoke with the new PIO, who told me that Detrick no longer would discuss past research activities, but would disclose information only on current projects. Later that day I telephoned the retired PIO at his home. He informed me that upon retiring he was told to ''get rid of that stuff'', meaning incriminating documents relating to Japanese medical war crimes. Detrick no longer is a viable research center for historians.

3. Within the past 2 weeks, I was informed that the Pentagon, for ''space reasons'', decided to rid itself of all biological warfare documents in its holdings prior to 1949. The date is important, because all war crimes trials against accused Japanese war criminals were terminated by 1949. Thus, current Pentagon materials could not implicate alleged Japanese war criminals. Fortunately, a private research facility in Washington volunteered to retrieve the documents in question. This research facility now holds the documents, is currently cataloguing them (estimated completion time, at least twelve months), and is guarding the documents under ''tight security.''

Your proposed legislation must be acted upon promptly. Many of the victims of Japanese war crimes are elderly. Some of the victims pass away daily. Their suffering should receive recognition and some compensation. Moreover, History is being cheated. As documents disappear, the story of war crimes committed in the War In The Pacific becomes increasingly difficult to describe. The end result will be a distorted picture of reality. As an Historian, I cannot accept this inevitability without vigorous protest.

Please excuse the length of this letter. However, I do hope that some of the arguments I made in comments above will be of some assistance to you as you press for passage of the proposed legislation. I will be happy to be of any additional assistance to you, should you wish to call upon me for further information or documentation.

Sincerely yours,

SHELDON H. HARRIS,
Professor of History emeritus,
California State University, Northridge.

[From the Bulletin of the Atomic Scientists, Oct., 1981]

JAPAN'S BIOLOGICAL WEAPONS: 1930–1945—A HIDDEN CHAPTER IN HISTORY

(By Robert Gomer, John W. Powell and Bert V.A. Röling)

When this story first reached the Bulletin, our reaction was horrified disbelief. I think all of us hoped that it was not true. Unfortunately, subsequent research shows that it is all too true. In order to verify the facts set forth here we enlisted the help of a number of distinguished scientists and historians, who are hereby thanked. It seems unnecessary to mention them by name; suffice it that the allegations set forth in this article seem to be true and there is a substantial file of documents in the Bulletin offices to back them up.

What other comment need one really make? Any reader with a sense of justice and decency will be nauseated, not only by these atrocities, but equally so by the reaction of the U.S. Departments of War and State.

The psychological climate engendered by war is horrible. The Japanese tortured and killed helpless prisoners in search of ''a cheap and effective weapon.'' The Americans and British invented firestorms and the U.S. dropped two nuclear bombs on Hiroshima and Nagasaki. In such a climate it may have seemed reasonable not to bring the Japanese responsible for the biological ''experiments'' to justice, but it was and remains monstrous.

By acquiring ''at a fraction of the original cost'' the ''invaluable'' results of the Japanese experiments, have we not put ourselves on the same level as the Japanese experimenters? Some politicians and generals like to speak of the harsh realities of the world in order to act both bestially and stupidly. The world clearly does contain harsh realities but somehow there is a sort of potential divine justice basic decency generally would have been the smartest course in the long run. Unfortunately there are few instances where it was actually taken.

The spirit and psychological climate which made possible the horrors described in this article are not dead; in fact, they seem to be flourishing in the world. The torture chambers are busy in Latin America and elsewhere, and the United States provides economic and military aid to the torturers. The earth-and-people destroying was waged by the United States not long ago in Vietnam, the apparently similar war being waged by the Soviets in Afghanistan, the horrors of the Pol Pot regime in Cambodia, and the contemplation with some equanimity of ''limited'' nuclear war by strategists here and in the Soviet Union display the spirit of General Ishii. If we are to survive as human beings, or more accurately, if we are to become fully human, that spirit must have no place among men.—Robert Gomer (professor of chemistry at the University of Chicago, and member of the Board of Directors of the Bulletin.)

Long-secret documents, secured under the U.S. Freedom of Information Act, reveal details of one of the more gruesome chapters of the Pacific War; Japan's use of biological warfare against China and the Soviet Union. For years the Japanese and American governments succeeded in suppressing this story.

Japan's desire to hide its attempts at ''public health in reverse'' is understandable. The American government's participation in the cover-up, it is now disclosed, stemmed from Washington's desire to secure exclusive possession of Japan's expertise in using germs as lethal weapons. The United States granted immunity from war crimes prosecution to the Japanese participants, and they in turn handed over their laboratory records to U.S. representatives from Camp Detrick (now Fort Detrick).

The record shows that by the late 1930s Japan's biological warfare (BW) program was ready for testing. It was used with moderate success against Chinese troops and civilians and with unknown results against the Russians. By 1945 Japan had a huge stockpile of germs, vectors and delivery equipment unmatched by any other nation.

Japan had gained this undisputed lead primarily because its scientists used humans as guinea pigs. It is estimated that at least 3,000 people were killed at the main biological warfare experimental station, code named Unit 731 and located a few miles from Harbin. They either succumbed during the experiments or were executed when they had become physical wrecks and were no longer fit for further germ tests [1, pp. 19–21]. There is no estimate of total casualties but it is known that at least two other Japanese biological warfare installations—Unit 100 near Changchun and the Tama Detachment in Nanjing—engaged in similar human experimentation.

(End Notes at end of articles)

This much of the story has been available for some years. What has not been known until very recently is that among the human guinea pigs were an undetermined number of American soldiers, captured during the early part of the war and confined in prisoner-of-war camps in Manchuria. Official U.S. reports reveal that Washington was aware of these facts when the decision was made to forego prosecution of the Japanese participants. These declassified ''top secret'' documents disclose the details and raise disturbing questions about the role of numerous highly placed American officials at the time.

The first public indications that American prisoners of war were among the human victims appeared in the published summary of the Khabarovsk trial. A witness stated that a researcher was sent to the camps where U.S. prisoners were held to ''study the immunity of Anglo-Saxons to infectious diseases'' [1, p. 268]. The summary noted: ''As early as 1943, Minata, a researcher belonging to Detachment 731, was sent to prisoner of war camps to test the properties of the blood and immunity to contagious diseases of American soldiers'' [1, p. 415].

On June 7, 1947, Colonel Alva C. Carpenter, chief of General Douglas MacArthur's legal staff, in a top secret cable to Washington, expressed doubt about the reliability of early reports of Japanese biological warfare, including an allegation by the Japanese Communist Party that experiments had been performed ''on captured Americans in Mukden and that simultaneously research on similar lines was conducted in Tokyo and Kyoto.'' On June 27, Carpenter again cabled Washington, stating that further information strengthened the charges and ''warrants conclusion'' that the Ishii group had violated the ''rules of land warfare.'' He warned that the Soviets might bring up evidence of Japanese use of biological warfare against China and ''other evidence on this subject which may have resulted from their independent investigation in Manchuria and in Japan.'' He added that ''this expression of opinion'' was not a recommendation that Ishii's group be charged with war crimes.

Cecil F. Hubbert, a member of the State, War, Navy Coordinating Committee, in a July 15, 1947 memo, recommended that the story be covered up but warned that it might leak out if the Russian prosecutor brought the subject up during the Tokyo war crimes trials and added that the Soviets might have found out that ''American prisoners of war were used for experimental purposes of a BW nature and that they lost their lives as a result of these experiments.''

In his book, *The Pacific War* Professor Ienaga Saburo added a few new details about Unit 731 and described fatal vivisection experiments at Kyushu Imperial University on downed American fliers [2, pp. 188–90].

The biological warfare project began shortly after the Manchurian Incident in 1931, when Japan occupied China's Northeast provinces and when a Japanese Army surgeon, Ishii Shiro, persuaded his superiors that microbes could become an inexpensive weapon potentially capable of producing enormous casualties [1, pp. 105–107; 3]. 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 the human experimentees, testing grounds, an arsenal for makin 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 Japanese destroyed their biological warfare installations in China, killed the remaining human experimentees (''It took 30 hours to lay them in ashes [4]'') and ship out most of their personnel and some of the more valuable equipment to South Korea [1, pp. 43, 125, 130–31]. Reports that some equipment was slipped into Japan are confirmed by American documents which reveal that slides, laboratory records and case histories of experiments over many years were successfully transported to Japan [4].

A ''top secret'' cable from Tokyo to Washington on May 6, 1947, described some of the information being secured:

''Statements obtained from Japanese here confirm statements of USSR prisoners. . . Experiments on humans were . . . described by three Japanese and confirmed tacitly by Ishii; field trials against Chinese took place . . . scope of program indicated by report . . . that 400 kilograms [880 lbs.] of dried anthrax organisms destroyed in August 1945. . . . Reluctant statements by Ishii indicate he had superiors (possibly general staff) who . . . authorized the program. Ishii states that if guaranteed immunity from ''war crimes'' in documentary form for himself, superiors and subordinates, he can describe program in detail. Ishii claims to have extensive theoretical high-level knowledge including strategic and tactical use of BW on defense and offense, backed by some research on best agents to employ by geographical areas of Far East, and the use of BW in cold climates'' [5, 6].

A top secret Tokyo headquarters ''memorandum for the record'' (also dated May 6), gave more details: ''USSR interest in Japanese BW personnel arises from interrogations of two captured Japanese formerly associated with BW. Copies of these interrogations were given to U.S. Preliminary investigation[s] confirm authenticity of USSR interrogations and indicate Japanese activity in:

a. Human experiments
b. Field trials against Chinese
c. Large scale program
d. Research on BW by crop destruction
e. Possible that Japanese General Staff knew and authorized program
f. Thought and research devoted to strategic and tactical use of BW.

Data . . . on above topics are of great intelligence value to U.S. Dr. Fell, War Department representative, states that this new evidence was not known by U.S. [6].

Certain low echelon Japanese are now working to assemble most of the necessary technical data. . . . Information to the present have [sic] been obtained by persuasion, exploitation of Japanese fear of USSR and Japanese desire to cooperate with U.S. Additional information . . . probably can be obtained by informing Japanese involved that information will be kept in intelligence channels and not employed for 'war crimes' evidence.

Documentary immunity from ''war crimes'' given to higher echelon personnel involved will result in exploiting twenty years experience of the director, former General Ishii, who can assure complete cooperation of his former subordinates, indicate the connection of the Japanese General Staff and provide the tactical and strategic information'' [7].

A report on December 12, 1947, by Dr. Edwin V. Hill, chief, Basic Sciences, Camp Detrick, Maryland, described some of the technical data secured from the Japanese during an official visit to Tokyo by Hill and Dr. Joseph Victor [8]. Acknowledging the ''wholehearted cooperation of Brig. Gen. Charles A. Willoughby,'' MacArthur's intelligence chief, Hill wrote that the objectives were to obtain additional material clarifying reports already submitted by the Japanese, ''to examine human pathological material which had been transferred to Japan from BW installations,'' and ''to obtain protocols necessary for understanding the significance of the pathological material.''

Hill and Victor interviewed a number of Japanese experts who were already assembling biological warfare archival material and writing reports for the United States. They checked the results of experiments with various specific human, animal and plant diseases, and investigated Ishii's system for spreading disease via aerosol from planes. Dr. Ota Kiyoshi described his anthrax experiments, including the number of people infected and the number who died Ishii reported on his experiments with botulism and brucellosis. Drs. Hayakawa Kiyoshi and Yamanouchi Yujiro gave Hill and Victor the results of other brucellosis tests, including the number of human casualties.

Hill pointed out that the material was a financial bargain, was obtainable nowhere else, and concluded with a plea on behalf of Ishii and his colleagues:

''Specific protocols were obtained from individual investigators. Their descriptions of experiments are detailed in separate reports. These protocols . . . indicate the extent of experimentation with infectious diseases in human and plant species.

Evidence gathered . . . has greatly supplemented and amplified previous aspects of this field. It represents data which have been obtained by Japanese scientists at the expenditure of many millions of dollars and years of work. Information has accrued with respect to human susceptibility to those diseases as indicated by specific infectious doses of bacteria. Such information could not be obtained in our own laboratories because of scruples attached to human experimentation. These data were secured with a total outlay of Y [yen] 250,000 to date, a mere pittance by comparison with the actual cost of the studies.

Furthermore, the pathological material which has been collected constitutes the only material evidence of the nature of these experiments. It is hoped that individuals who voluntarily contributed this information will be spared embarrassment because of it and that every effort will be taken to prevent this information from falling into other hands.''

A memo by Dr. Edward Wetter and Mr. H.I. Stubblefield, dated July 1, 1947, for restricted circulation to military and State Department officials also described the nature and quantity of material which Ishii was beginning to supply, and noted some of the political issues involved [9]. They reported that Ishii and his colleagues were cooperating fully, were preparing voluminous reports, and had agreed to supply photographs of ''selected examples of 8,000 slides of tissues from autopsies of humans and animals subjected to BW experiments.'' Human experiments, they pointed out, were better than animal experiments:

''This Japanese information is the only known source of data from scientifically controlled experiments showing the direct effect of BW agents on man. In the past it has been necessary to evaluate 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 possession 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 of the U.S.'' They emphasized that the knowledge gained by the Japanese from their human experiments ''will be of great value to the U.S. BW research program'' and added: ''The value to U.S. of Japanese BW data is of such importance to national security as to far outweigh the value accruing from war crimes prosecution.''

A July 15 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 because ''experiments on human beings . . . have been condemned as war crimes by the International Military Tribunal'' in Germany and that the United States ''is at present prosecuting leading 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 Soviets in the Mukden area may have disclosed evidence that American prisoners-of-war were used for 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 Japanese biological warfare personnel be given immunity in return for their 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.''

Hubbert returned to the subject in a memorandum written jointly with E.F. Lyons, Jr., a member of the Plans and Policy Section of the War Crimes Branch. This top secret document stated, in part:

''The Japanese BW group is the only known source of data from scientifically controlled experiments showing direct effects of BW agents on humans. In addition, considerable valuable data can be obtained from this group regarding BW experiments on animals and food crops. . . .

Because of the vital importance of the Japanese BW information . . . the Working Group, State-War-Navy Coordinating Sub-

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 by the group on the subject of BW. This decision was made with full consideration of and in spite of the following:

(a) That its practical effect is that this Government will not prosecute any 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 attempt to introduce at the International Military Trial now pending at Tokyo.

(c) That there is a remote possibility that the evidence which may be disclosed by the Soviets would include evidence that American prisoners of war were used for experimental purposes by the Japanese BW group'' [11].

In the intervening years the evidence that captured American soldiers were among the human guinea pigs used by Ishii in his lethal germ experiments remained ''closely held'' in the top echelons of the U.S. government. A ''confidential'' March 13, 1956, Federal Bureau of Investigation internal memorandum, addressed to the ''Director, FBI (105–12804)'' from ''SAC, WFO (105–1532)'' stated in part:

''Mr. James J. Kelleher, Jr., Office of Special Operations, DOD [Department of Defense], has volunteered further comments to the effect that American Military Forces after occupying Japan, determined that the Japanese actually did experiment with ''BW'' agents in Manchuria during 1943–44 using American prisoners as test victims. . . . Kelleher added that . . . information of the type in question is closely controlled and regarded as highly sensitive.''

It is perhaps not surprising that it has taken so long for the full story to be revealed. Over the years fragments have occasionally leaked out, but each time were met with denials, initially by the Japanese and later by the United States. During the Korean War when China accused the United States of employing updated versions of Japan's earlier biological warfare tactics, not only were the charges denied, but it was also claimed that there was no proof of the earlier Japanese actions.

At the time of the Khabarovsk trial, the United States was pressing the Soviet Union to return thousands of Japanese prisoners held in Siberian labor camps since the end of World War II. When news of the trial reached Tokyo, it was dismissed as ''propaganda.'' William J. Sebald, MacArthur's diplomatic chief, was quoted in a United Press story in the Nippon Times on December 29, 1949, as saying the story of the trial might just be fiction and that it obviously was a ''smoke screen'' to obscure the fact that the Soviets had refused to account for the missing Japanese prisoners.

It is possible that some of Ishii's attacks went undetected, 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 Chinese 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 was not investigated in a scientific way, but the observed facts aroused suspicion. Something was seen to come out of a Japanese plane. Later, there was a heavy infestation of fleas and 99 people came down with bubonic plague, with all but one dying. Yet the rats in the city did not have plague, and traditionally, outbreaks of plague in the human population follow an epizootic in the rat population.

In the next few years a number of other Japanese biological warfare attacks were alleged by the Chinese. Generally, they were based on similar cause and effect observations. One incident, however, was investigated with more care.

On the morning of November 4, 1941, a Japanese plane circled low over Changde, 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, which fell in two streets in the city's East Gate District. During the next three weeks six people living on the two streets died, all with symptoms suggesting plague. Dr. Chen Wen-kwei, a former League of Nations plague expert in India, arrived with a medical team just as the last victim died. He performed the autopsy, found symptoms of plague which were confirmed by culture and animal tests. Again, there was no plague outbreak in the rat population [12, pp. 195–204].

On March 31, 1942, the Nationalist government stated that a follow-up investigation by Dr. Robert K.S. Lim, Director of the Chinese Red Cross, and Dr. R. Politzer, internationally known epidemiologist and former member of the League of Nations Anti-Epidemic Commission, who was then on a wartime assignment to the Chinese government, had confirmed Chen's findings.

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 Clarence E. Gauss was uncertain in an April 11, 1942, cable to the State Department, while Dr. Theodor Rosebury, the well-known American bacteriologist, felt that failure to produce plague bacilli from cultures of the material dropped at Changde weakened the Chinese claim [13, pp. 109–10]. Chen's full report, in which he suggested that it was fleas that were infected rather than the other material, was not made readily available by the Nationalist government.

Later disclosures of Japanese techniques would support Chen's reasoning: Fleas, after being fed on plague-infected rats, were swaddled in cotton and wrapped in paper, while grain was included in the mix in the hope that it would attract rats so that the fleas would find a new host to infect and thus start a ''natural'' epidemic.

At the December 1949 Soviet trial at Khabarovsk evidence was produced supporting the Nationalist Chinese biological warfare charges [14]. Witnesses testified that films had been made of some tests, including the 1940 attack on Ningbo. Japanese witnesses and defendants confirmed other biological warfare attacks, such as the 1941 Changde incident. Military orders, railroad waybills for shipment of biological warfare supplies, gendarmerie instructions for sending prisoners to the laboratories, and other incriminating Japanese documents were introduced in evidence [1, pp. 19–20, 23–24].

Describing the operation of Unit 731, the main biological warfare installation, located outside Harbin, the transcript summary stated: ''Experts have calculated . . . that it was capable of breeding, in the course of one production cycle, lasting only a few days, no less than 30,000,000 billion microbes. . . . That explains why . . . bacteria quantities [are given] in kilograms, thus referring to the weight of the thick, creamy bacteria mass skimmed directly from the surface of the culture medium [1, pp. 13–14].

Total bacteria production capacity at this one unit was eight tons per month [1, pp. 266–67].

Euphemistically called a ''water purification unit,'' General Ishii's organization also worked on medical projects not directly related to biological warfare. In the Asian countries it overran, the Japanese Army conscripted local young women to entertain the troops. The medical difficulties resulting from this practice became acute. In an effort to solve the problem, Chinese women confined in the detachment's prison ''were infected with syphillis with the object of investigating preventive means against this disease. [1, p. 357].

Another experiment disclosed at the Khabarovsk trial was the ''freezing project.'' During extremely cold winter weather prisoners were led outdoors:

''Their arms were bared and made to freeze with the help of an artificial current of air. This was done until their frozen arms, when struck with a short stick, emitted a sound resembling that which a board gives out when it is struck'' [1, pp. 289, 21–22, 357–58].

Once back inside, various procedures for thawing were tried. One account of Unit 731's prison, adjacent to the laboratories, described men and women with rotting hands from which the bones protruded—victims of the freezing tests. A documentary film was made of one of the experiments.

Simulated field tests were carried out at Unit 731's Anta Station Proving Ground. Witnesses described experiments in which various infecting agents were used. Nishi Toshihide, Chief of the Training Division, testified:

''In January 1945 . . . I saw experiments in inducing gas gangrene, conducted under the direction of the Chief of the 2nd Division, Col. Ikari, and researcher Futaki. Ten prisoners . . . were tied facing stakes, five to ten metres apart. . . . The prisoners' heads were covered with metal helmets, and their bodies with screens . . . only the naked buttocks being exposed. At about 100 metres away a fragmentation bomb was exploded by electricity. . . . All ten men were wounded . . . and sent back to the prison. . . . I later asked Ikari and research Futaki what the results had been. They told me that all ten men had . . . died of gas gangrene.'' [1, pp. 289–90].

Among the many wartime recollections published by Japanese exservicemen are a few by former members of Unit 731 [15]. Akiyama Hiroshi told his story in two magazine articles and Kimura Bumpei, a former captain, has published his memoirs [16]. Sakaki Ryohei, a former major, has described how plague was spread by air-dropping rats and voles and has given details of the flea ''nurseries'' developed by Ishii for rapid production of millions of fleas [17].

A more dramatic confirmation of Ishii's work was an hour-long Japanese television documentary produced by Yoshinaga Haruko and shown by the Tokyo Broadcasting System. A Washington Post dispatch on November 19, 1976, reported:

''In the little-publicized television documentary on the germ warfare unit, Yoshinaga laid bare secrets closely held in Japan during and since the war. . . . [She] traveled throughout Japan to trace down 20 former members of the wartime unit. . . . Four of the men finally agreed to help, and the reporter found their testimony dovetailed with reports of war crime trials held in the Soviet Union.''

Some of those interviewed by Yoshinaga claimed that they had told their stories to American authorities. Eguchi said that he ''was the second to be ordered to G.H.Q. [General Headquarters]'' and ''they took a

record'' of his testimony. Takahashi, an ex-surgeon and Army major, stated: ''I went to the G.H.Q. twice in 1947. Investigators made me write reports on the condition that they will protect me from the Soviets.'' Kumamoto, an ex-flight engineer, said that after the war General Ishii went to America and ''took his research data and begged for remission for us all'' [4].

Declassified position papers indicate a difference of opinion on how to deal with the question of immunity. The War Department favored acceding to Ishii's demands for immunity in documentary form. The State Department, however, cautioned against putting anything in writing which might later cause embarrassment, arguing that if the 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 hoped, would ''be spared embarrassment,'' not only used their human guinea pigs in experiments to determine lethal dosages but on occasion—in their pursuit of exact scientific information—made certain that the experimentees 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 then performed, so that the progress of the disease could be ascertained at various time-frames.

General Kitano Masaji and Dr. Kasahara Shiro revealed this practice in a report prepared for U.S. officials describing their work on hemorrhagic fever:

''Subsequent cases 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. Morphine was employed for this purpose'' [18].

Kitano 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 7 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 learned a lot from their Japanese counterparts. While we do not yet know exactly how much this information advanced the American program, we have the Fort Detrick doctors' testimony that it was ''invaluable.'' And it is known that some of the biological weapons developed later were at least similar to ones that had been part of the Japanese project. Infecting feathers with spore diseases was one of Ishii's achievements and feather bombs later became a weapon in America's biological warfare arsenal [19].

Dr. Leroy D. Fothergill, long-time scientific advisor to the U.S. Army's Biological Laboratories at Fort Detrick, once speculated upon some of the possible spin-off effects of a biological warfare attack:

''Everything that breathes in the exposed area has an opportunity to be exposed to the agent. This will involve vast numbers of mammals, birds, reptiles, amphibians, and insects. . . . Surveys have indicated surprising numbers of wild life inhabiting each square mile of countryside. It is possible that many species would be exposed to an agent for the first time in their evolutionary history . . . Would it create the basis for possible genetic evolution of microorganisms in new directions with changes in virulence of some species? Would it establish public health and environmental problems that are unique and beyond our present experience?'' [20].

Perhaps President Richard Nixon had some of these things in mind when, on November 25, 1969, he renounced the use of biological warfare, declaring:

''Biological weapons have massive unpredictable and potentially uncontrollable consequences. They may produce global epidemics and impair the health of future generations. I have therefore decided that the U.S. shall renounce the use of lethal biological agents and weapons, and all other methods of biological warfare'' [21].

Some research on defensive aspects was permitted by the ban. The line between defense and offense is admittedly a thin one. Nearly a year after the Nixon renunciation of biological warfare, Seymour Hersh wrote that the programs the Army wanted to continue ''under defensive research included a significant effort to develop and produce virulent strains of new biological agents, then develop defenses against them. 'This sounds very much like what we were doing before,' one official noted caustically'' [22].

There is a difference of opinion among observers as to whether the United States and other major powers have indeed given up on biological warfare. Some believe the issue is a matter of the past. However, its history has been so replete with deception that one cannot be sure. One thing seems certain: The story did not end with Japan's use of biological war fare 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 prematurely ended by massive doses of plague, typhus, dysenteries, gas gangrene, typhoid, hemorrhagic fever, cholera, anthax, tularemia, smallpox, tsutsugamushi and glanders; 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 ''national security'' interests of 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 few, General Kitano among them, enjoyed exceptional good health and at the time of writing were living in quiet retirement.

GENERAL HEADQUARTERS, SUPREME COMMANDER FOR THE ALLIED POWERS,

Mar 27, 47.

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 his point by suddenly claiming 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 FEC.

5. This memorandum recommends:

a. Radio to WD for two experts.

b. Letter to USSR refusing to turn over Japanese expert.

c. Check Note to International Prosecution Section initiating action on the JCS approved interrogations.

WAR DEPARTMENT,
CLASSIFIED MESSAGE CENTER,
CFE Tokyo Japan (Carpenter Legal Section).

Reurad WAR 80671, 22nd June 47, held another conference with Tavenner of IPS who reports following.

One on 27th October 1940 Japanese planes scattered quantities of wheat grain over Ningpo. Epidemic of bubonic plague broke out 29th October 40. Karazawai affidavit in para 3 below confirms this as Ishii Detachment experiment. 97 plague fatalities.

2. Strong circumstantial evidence exists of use of bacteria warfare at Chuhsien, Kinghwa and Changteh. At Chuhsien Japanese planes scattered rice and wheat grains mixed with fleas on 4th October 1940. Bubonic plague appeared in same area on 12th November. Plague never occurred in Chuhsien before occurrence. Fleas were not properly examined to determine whether plague infected. At Kinghwa, located between Ningpo and Chupuien, 3 Japanese planes dropped a large quantity of small granules on 28th November 1940. Microscopic examination revealed presence of numerous gram-negative bacilli possessing * * *.

* * * * *

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 criminality of the most disgusting kind was kept secret from the Court by the U.S. government. This Japanese war criminality consisted, in part, of using human beings, prisoners of war, Chinese as well as American, as ''guinea pigs'' in an endeavor to test the impact of specific biological warfare weapons. Research on and production of these weapons was not forbidden at that time. The Protocol of Geneva, 1925, forbade their use only in battle. But to use human beings for biological experiments, causing the death of at least 3,000 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 30, 1949. I remember reading about it [1], and not believing its contents. I could not imagine that these things had happened, without the Court in Tokyo being informed. According to the book about the trial all the facts were 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 experiements 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, 519]. This was bound to cause doubts about its credibility. The emperor does not give orders to perform specific military acts. Everything that is ordered by the government and its officials is ''in the name of the emperor.'' But his role is remarkable in that he may not make decisions; he has only to confirm decisions of the government. The ''imperial will is decisive, but it derives wholly from 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 imperial confirmation gives a decision an exceptional authority: the command of the emperor is obeyed. In fact, however, the emperor has a kind of loud-speaker function. He is heard, and obeyed, but he speaks only on the recommendation of the government.

Very seldom does the emperor act in a personal manner. One such occasion was his criticism of the behavior of the Japanese army in Manchuria (the so-called Manchurian Incident). Another related to his role in connection with the capitulation at the end of World War II. Despite the atomic bombs and the entry of the Soviet Union 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 untrustworthy. The whole setup could 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 postwar judgments which could easily be misused for political purposes, and giving the Khabarovsk trial as an example. I must state now that the Japanese misbehavior as described in the judgment, 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 a bargain: almost for nothing, 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 when such deviation takes place. It leads gradually to contempt for the military, as witness the public attitude in connection with military behavior in the Vietnam war. The kind of military behavior that occurred in connection with the Japanese biological weapon atrocities can only contribute further to this attitude.

Respect for what the Nuremberg judgment called ''the honorable profession of arms'' is needed. Military power is still indispensable in our present world to provide for peace and security, so it is desirable for it to be held in high esteem. Power which is despised may become dangerous. Moreover, only if the military is regarded with respect, will it attract the personnel it should have.

The same is true of diplomatic service, which needs national and international respect. This respect will disappear if the service indulges in subversive activities, as the U.S. diplomatic mission did in Iran. That diplomatic misbehavior in Iran led to developments—the hostage crisis—which were disastrous for the whole world.

The documents which have come to light inform us also of the use of biological weapons in the war against the Chinese people. The criminal warfare was not mentioned in the Tokyo indictment, and not discussed before the Military Tribunal. It was kept secret from the world. The immunity granted to the Japanese war criminals covered not only deadly research on living persons, but also the use of biological weapons against the Chinese. And all this so that the United States could obtain exclusive access to the information, gained at the cost of thousands of human lives.

Knowledge about what kind of bargain was being struck in the biological weapons area may strengthen the perception of the repulsiveness of war. It may also show the danger of moral depravity, in peacetime, within the circles that have the instruments of military power in their hands.

END NOTES

1. Materials on the Trial of Former Servicemen of the Japanese Army Charged with Manufacturing and Employing Bacteriological Weapons (Moscow: Foreign Languages Publishing House, 1950), pp. 19–21. 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 Gijutsu-shi Taikei''), Vol. 25 (Medicine 2, 1967), pp. 309–10. This account states that the biological warfare program was organized in 1933 and that ''for special research on bacteria, members of the epidemic-prevention section shall be sent to Manchuria.'' It also stated that little was known about the program after the war since all records were said to have been destroyed and that the only evidence was that produced at the Khabarovsk trial. It did add, however, that there were reports that General Ishii had avoided prosecution by turning over his materials to U.S. authorities. I have not seen this volume and am indebted to John Dower, of the University of Wisconsin, who supplied the citation.

2. Ienaga Saburo, The Pacific War (New York: Pantheon, 1978).

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 life was Prince Takeda [1, p. 40]. Ishii's friend at court was Gen. Nagata Tetsuzan, long Japan's top military man [1, pp. 106, 295], while the orders establishing the two original units were reputedly issued by the Emperor [1, pp. 10, 104, 413].

4. ''A Bruise—Terror of the 731 Corps,'' Tokyo Broadcasting System television documentary, 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) carried 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 her they were promised complete protection in return for cooperation with U.S. authorities. ''All the important documents were given to the United States,'' she said.

5. This ''top secret'' cable [C–52423] also reveals that the first of the biological warfare experts to be sent from Washington to Japan had already arrived, referring to ''Dr. Norbert H. Fell's letters via air courier to General Alden C. Waitt,'' who was then chief of the U.S. Army Chemical Corps.

6. Cable from Washington to Tokyo on April 2, 1947, stating that Fell would leave for Japan on April 5. A cable from Tokyo to the War Department on June 30, 1947, warns that an ''aggressive prosecution will adversely affect U.S. interests'' and urges that Fell (presumably now returned to Washington) be shown recent cables because he is an expert and can appreciate the value of the Japanese BW material.

7. Top secret Memorandum for the Record (May 6, 1947) indicated it was in response to ''War Department Radio W–94446 & SWNCC 351/1 and was signed ''RPM 26–6166''.

8. ''Summary Report on B.W. Investigations.'' Dated Dec. 12, 1947, and addressed to General Alden C. Waitt.

9. Dated july 1, 1947, and titled, ''Interrogation of Certain Japanese by Russian Prosecutor,'' this memo also lists some of the material already obtained, including a ''60 page report'' covering experiments on humans and notes that other data confirms, supplements and complements U.S. research and ''may suggest new fields for future research.'' Record Group No. 153, National Archives.

10. This July 15, 1947, memo is addressed to Commander J.B. Cresap and signed ''Cecil F. Hubbert, member working party (SWNCC 351/2/D).''

11. Undated and titled ''SFE 182/2,'' it was part of National Archives Record Group No. 153.

12. ''Report of the International Scientific Commission for the Investigation of the Facts Concerning Bacterial Warfare in Korea and China,'' Peking, 1952.

13. Theodor Rosebury, Peace or Pestilence (New York: McGraw-Hill, 1949).

14. In order to ascertain the Nationalist position on this issue after the passage of some 40 years, I checked with Taipei and am grateful to Lieutenant General Teng Shu-wei, of the Nationalist Defense Ministry's Medical Bureau, who searched the Taiwan archives. His report is in substantial agreement with the records of the People's Republic in Beijing, although less complete.

15. Bungei Shunjũ, Aug. 1955; Jimbutsu Òhrai (July 10, 1956).

16. ''Terrible Modern Strategic War'' by Kimura Bumpei. I have not seen this book and am relying upon a brief description of it contained in a March 31, 1959, letter from Tokyo attorney Morikawa Kinju to A.L. Wirin, chief counsel of the American Civil Liberties Union in Los Angeles.

17. Sunday Mainichi, No. 1628 (Jan. 27, 1952).

18. ''Songo-Epidemic Hemorrhagic Fever,'' report dated Nov. 13, 1947, based on interview with General Kitano Masaji and Dr. Kasahara Shiro.

19. ''Feathers as Carriers of Biological Warfare Agents,'' Biological Department, Chemical Corps So and C Divisions (Dec. 15, 1950).

20. Leroy D. Fothergill, M.D., ''Biological Warfare: Nature & Consequences,'' Texas State Journal of Medicine (Jan. 1964).

21. New York Times (Nov. 26, 1969).

22. Washington Post (Sept. 20, 1970).

This article is based, in part, on an article by the author in Bulletin of Concerned Asian Scholars (P.O. Box W, Charlemont, MA 01339), 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 shared; (3) affirmative consent, that is that the financial institution must receive the affirmative consent of the consumer, also referred to as an opt-in, in order to share such information with third parties and affiliates. Lastly, my 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 some 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 had 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 record 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 outraged by 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 licenses at their state department of motor vehicles. That provision sailed through the Senate and then the House. That bill was signed into law by President Clinton. Despite significant lobbying by the direct marketing industry, not one member of the House or Senate took to the floor and said, ''I believe we should not allow consumers to choose whether or not their drivers license information, including their picture, should be sold or traded away like an old suit.'' No, no one objected to the opt-in. As a result, I believe very strongly that Congress has already set the bar on this issue. Opt-in is not just reasonable, it is the right thing to do.

Meanwhile, the ad hoc coalition, which is continuing to grow and includes every ideology from conservative to liberal, has signed on to four basic principles with regard to financial privacy. The principles include notice, access and consent, but also a requirement that weak federal laws not preempt stronger state laws. Our amendment incorporates those four basic principles.

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 financial institutions 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 include an opt-in, 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 comprehend, seeing as 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 customer information between Citibank (South Dakota), referred 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 to third parties 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 to third parties, 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 opt-in 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 Americans want. This bill is workable as proven in the Citicorp 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 financial 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. Citicorp Card Operations GmbH, Bentheimer Straβe 118, 48529 Nordhorn, Germany (CCO)

(CKS and CCO hereinafter collectively referred to as: Card Service Companies)

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, Kasernenstraβe 10, 40213 Düsseldorf, Germany (CIP)

RECITAL

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 in issuing 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 concluded 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 credit card business, including accounting and electronic data processing, on the basis of the terms of a Service Agreement (non-gratuitous contract for services) dated March 24, 1998, supplemented as of June 1, 1989 and November 30, 1989. Details are contained in the ''CKS Service

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, the 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 Co-Branding Agreement with the Deutsche Bahn AG dated November 18, 1994, CIP assumed responsibility for the issuance of the DB/Citibank BahnCard as well as for the entire management and operations associated with this business.

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 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.

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 such considerations, the Card Service Companies—as principals—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 and use these 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 right to 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 described above requires the Card Service Companies' express written consent.

2. At any time, the Card Service Companies may make inquiries to CNA about the personal data transferred by the Card Service Companies and stored at CNA, and the Card Service Companies may require CNA to perform corrections, deletions or blockings of such personal data transferred by the Card Service Companies to CNA.

§3 INSPECTION RIGHTS OF THE CARD SERVICE COMPANIES

At regular intervals, an (joint) agent appointed by the Card Service Companies shall verify whether CNA complies with the terms and conditions of this Agreement, and in particular with the data protection law as well as the banking secrecy regulations. CNA shall grant the Card Service Companies' agent supervised unimpeded access to the extent necessary to accomplish the inspection and review of all data processing facilities, data files and other documentation needed for processing and utilizing the personal data transferred by the Card Service Companies in a fashion which is consistent with the CNA Operational Policies. CNA 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 Customers' consent as 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:

1. 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:

a. Establishing security areas;

b. Protection and restriction of access paths;

c. Securing the decentralized data processing equipment and personal computers;

d. Establishing access authorizations for employees and third parties, including the respective documentation;

e. Identification of the persons having access authority;

f. Regulations on key-codes;

g. Restriction on keys;

h. Code card passes;

i. Visitors books;

j. Time recording equipment;

k. 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. Controlling 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 data memory and the unauthorized reading, alteration or deletion of the stored data on Card Customers.

This shall be accomplished by:

a. An authorization policy for the input of data into memory, as well as for the reading, alteration and deletion of stored data;

b. Authentication of the authorized personnel;

c. Protective measures for the data input into memory, as well as for the reading, alteration and deletion of stored data,

d. Utilization of user codes (passwords);

e. Use of encryption for critical security files.

f. Specific access rules for procedures, control cards, process control methods, program cataloging authorization;

g. Guidelines for data file organization;

h. Keeping records of data file use;

i. Separation of production and test environment for libraries and data files

j. Providing that entries to data processing facilities (the rooms housing the computer hardware and related equipment) are capable of being locked,

k. Automatic log-off of user ID's that have not been used for a substantial period of time.

4. User control

CNA shall implement suitable measures to prevent its data processing systems from being used by unauthorized persons by means of data transmission equipment.

This shall be accomplished by:

a. Identification of the terminal and/or the terminal user to the DP system;

b. Automatic turn-off of the user ID when several erroneous passwords are entered, log file of events, (monitoring of break-in-attempts);

c. Issuing and safeguarding of identification codes;

d. Dedication of individual terminals and/or terminal users, identification characteristics exclusive to specific functions;

e. Evaluation of records.

5 Personnel control

Upon 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 irrespective access permission (authorization).

This shall be accomplished by:

a. Allocation of individual terminals and/or terminal user, and 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 to 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/destinations 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 paths (logical paths).

8. Input control

CNA shall provide for the retrospective ability to review and determine the time and the point of the Card Customers' data entry into CNA's data processing system.

This shall be accomplished by:

a. Proof established within CNA's organization of the input authorization;

b. Electronic recording of entries.

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 are 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 parties during the transmission thereof or during the transport 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).

II. Organization control

CNA shall maintain its internal organization in a matter 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, insofar as they relate to data transferred by Card Service Companies;

b. Formulation of a data security concept whose content has been reconciled with the Card Service Companies;

c. Industry standard system and program examination;

d. Formulation of an emergency plan (back-up contingency plan).

§6 DATA PROTECTION SUPERVISOR

1. CNA undertakes to appoint a Data Protection Supervisor and to notify the Card Service Companies of the appointee(s). CNA shall only select an employee with adequate expertise and reliability necessary to perform such a duty, and provide the Card Service Companies with appropriate evidence thereof.

2. The Data Protection Supervisor shall be directly subordinate/accountable to CNA's General Management. He shall not be bound by instructions which obstruct or hinder the performance of his duty in the field of data protection. He shall cooperate with the Card Service Companies' agent—as indicated in §3 hereof—in monitoring the performance of this Agreement and adhering to the data protection requirements in conjunction with the data in question. In the event that CNA chooses to change the person who serves as a Data Protection Supervisor, CNA shall give timely notice to the Card Service Companies of such change. The Data Protection Supervisor shall be bound by confidentiality obligations.

3. The Data Protection Supervisor shall be available as the on-site contact for the Card Service Companies.

§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 furthermore obligate its employees to adhere to 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 thereafter 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 stored personal data, including the origin and 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 data stored at CNA.

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 or 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' own purposes, and such data are 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.

§9 NOTIFICATION TO THE CONCERNED PERSON

The Card Service Companies undertake to appropriately notify the concerned Card Customers of the transfer of their data to CNA.

§10 DATA PROTECTION SUPERVISION

1. According to the German Federal Data Protection Law (BDSG), the Card Service Companies and CIP are subject to public control exercised by the respective responsible supervisory authorities.

2. Upon request of CIP or either of the Card Service Companies, CNA shall provide the respective supervisory authorities with the desired information and grant them the opportunity of auditing to the same extent as they would be entitled to conduct audits at the Card Service Companies and CIP; this includes the entitlement to inspections at CNA's premises by the supervisory authorities or their nominated agents, unless barred by binding instructions of the appropriate U.S. authorities.

§11 BANKING SUPERVISION

1. Any vouchers, commercial books of accounting, and work instructions needed for the comprehension of such documents, as well as other organizational documents shall physically remain at the Card Service Companies, unless electronically archived by scanning devices in a legally permissible fashion.

2. The Card Service Companies and CNA undertake to adhere to the principles of proper accounting practice applicable in Germany for computer-aided processes and the auditing thereof, in particular FAMA 1/1987.

3. The Card Service Companies undertake to submit a data processing concept and a data security concept to the German Federal Authority for the Supervision of Banks (Bundesaufsichtsamt fur das Kreditwesen) prior to commencing transfer of data to CNA.

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 the data files transferred by the Card Service Companies to CNA. The internal auditors of the Card Service Companies and of CIP shall conduct audits of CNA as required by due diligence.

5. In a joint declaration to the Federal Banking Supervisory Authority; CIP, 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 abbreviated to KWG) at any time and not to impede or obstruct such audits, provided that legal requirements and/or instructions of U.S. authorities bind CNA to the contrary.

6. CNA shall request the US banking supervisory authorities' confirmation in writing to the effect that no objections will be raised against the intended remote data processing concept. In the event that CNA cannot procure such written confirmation upon the Card Service Companies' request, the Card Service Companies and CIP may withdraw from this Agreement and the underlying CNA Service Agreement.

7. CIP, the Card Service Companies and CNA undertake to abide by 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 appended as a Schedule hereto and forms an integral part of this Agreement.

§12 INDEMNIFICATION CLAIM

1. CNA shall indemnify the Card Service Companies within the scope of their internal and contractual relationship from any claims of damages asserted by the Card Customers, and resulting from CNA's incompliance with the terms and conditions of this Agreement.

2. The Card Service Companies shall indemnify CNA within the scope of their internal and contractual relationship from any claims of damages asserted by the Card Customer, 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, until terminated. 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, unremedied 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.

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. This obligation shall survive termination of this Agreement.

§ 15 DATA PROTECTION AGREEMENT WITH DEUTSCHE BAHN AG (DB AG)

1. The Deutsche Bahn AG captures personal data at its counters 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 conjunction with the subject matter as laid down herein and none of the parties hereto has entered into this Agreement in reliance upon any representation, warranty or undertaking of any other party which is not contained in this Agreement or incorporated by reference herein. Any subsequent amendments to this Agreement shall be in writing duly signed by authorized representatives of the parties hereto.

2. If one or more provisions of this Agreement becomes invalid, or the Agreement is proven to be incomplete, the validity and legality of the remaining provisions hereof shall not be affected or impaired thereby. 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, and the parties hereto further agree to be bound by such a valid term. An incompleteness of this Agreement shall be bridged in a similar fashion.

3. The Parties hereto submit to the jurisdiction and venue of the courts of Frankfurt/M.

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 Protectional 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 pure RailwayCard may only be used or 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 (§ 4 II).

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 again following 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 under the strict liability rules of German law either against German Railway, the German Citibank subsidiary or directly against the American Citibank subsidiary (§ 8).

7. The Citibank subsidiaries in the United States accept on-site audits by the German data protection supervisory authority, i.e., the Berlin Data Protection Commissioner, or his nominated agents, e.g. an American consulting or auditing firm acting on his behalf (§ 10 II).

This very important provision contains a restriction in case US authorities instruct Citibank in their country not to allow foreign auditors in. However, this restriction is not very likely to become practical. 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). 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 the Federal Banking Supervisory Authority and the Berlin Data Protection Commissioner will be working hand in glove.

8. Finally—and this is not reproduced in the version of the Agreement which you have received—German Railway has been linked to this agreement between Citibank subsidiaries in a specific provision.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1904. A bill to amend the Internal Revenue Code of 1986 to provide for an election for special tax 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 also is 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 advantages of the recent advancements in choice of entity.

In order to help these older businesses 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 1958, which added subchapter S to the code. The legislative history makes clear that the purpose of subchapter S 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 1990'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 alternative to the 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 nonrecognition of gain or loss in the exchange of property used in a trade or business, or for investment, on the theory that the taxpayer has not cashed out his investment. Code Sections 351 and 721 allow nonrecognition on the contribution of property to a corporation or a partnership, on the rationale that the taxpayer is only changing the form of his investment.

The S election itself was a giant stride in removing tax considerations in choice of entity. More recently, the Internal Revenue Service has done much to remove tax considerations from the choice of business form through the check the box regulations.

The Service should be commended for taking this step.

The next step in the process is allowing those S corporations that can more efficiently function as an LLC the one-time chance to make the conversion, without tax cost being the controlling 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 ROTH 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. 1905. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to the Committee on Health, Education, Labor, and Pensions.

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. DODD shares my sentiments in believing that this legislation could not be more timely or necessary. Lyme 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 confirmed 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 understate the true number of Lyme disease cases by as much as ten or twelve-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 a 33 percent reduction in 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 successfully 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 on 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. DODD. 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 CHRISTOPHER 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 that I offered to the FY 1999 Department of Defense (DoD) 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. And today, 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 the primary 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 phenomenal cost to society. Health problems experienced by those infected can include facial paralysis, joint swelling, loss of coordination, irregular heart-beat, liver malfunction, depression, and memory loss. Because Lyme disease mimics other conditions, 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-

rocketed—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 may be ten 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 the 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 authority to sell certain aircraft for use in wildfire suppression, and for other purposes; to the Committee on Armed Services.

WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996 EXTENSION LEGISLATION

Mr. BINGAMAN. Mr. President, Airplanes, known as airtankers, play a critical role in fighting wildfires. They are used in the initial attack of wildfires in support of firefighters on the ground and, on large wildfires, to aid in the protection of lives and structures from rapidly advancing fires.

Today, Senators ALLARD, CRAIG and I are introducing legislation that will help ensure that Federal firefighters continue to have access to airtanker services. This technical amendment will extend the expiration date of the Wildfire Suppression Aircraft Transfer Act of 1996 from September 30, 2000 to September 30, 2005. The regulations under the act are still being finalized, so no aircraft have yet been transferred. Extending the 1996 act is critical to help facilitate the sale of former military aircraft to contractors who provide firefighting services to the Forest Service and the Department of the Interior. The existing fleet of available airtankers is aging rapidly, and fleet modernization is critical to the continued success of the firefighting program.

This bill will extend legislative authority to transfer or sell excess turbine-powered military aircraft suitable for conversion to airtankers. If we fail to pass this extension, airtanker operators will not have access to the planes they need to update the aging airtanker fleet. The Wildfire Suppression Aircraft Transfer Act of 1996 required that the aircraft be used only for firefighting activities.

I urge my colleagues to support our efforts to ensure that Federal firefighters have the resources they need to protect the public and their property from the threat of wildfires.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENTS.

Section 2 of the Wildlife Suppression Aircraft Transfer Act of 1996 (Public Law No. 104–307) is amended—

(1) in subsection (a)(1) by striking ''September 30, 2000'' and inserting ''September 30, 2005'';

(2) in subsection (d)(2)(C), by striking ''and'' at the end;

(3) in subsection (d)(2)(D), by striking the period at the end and inserting ''; and'';

(4) in subsection (d)(2), by adding at the end the following:

''(E) be in effect until September 30, 2005''; and

(5) in subsection (f), by striking ''March 31, 2000'' and inserting ''March 31, 2005''.

By Mr. DODD (for himself and Mr. KENNEDY) (by request):

S. 1907. A bill to prohibit employment discrimination against parents and those with parental responsibilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ENDING DISCRIMINATION AGAINST PARENTS ACT OF 1999

Mr. DODD. Mr. President, I rise today to introduce ''the Ending Discrimination Against Parents Act of 1999,'' on behalf of President Clinton, to prohibit employment discrimination against private and public employees because they are parents. I am pleased to be joined by Senator KENNEDY in this effort.

Mr. President, today more than ever parents work. One may argue whether it is right or wrong—but the facts are clear. In 1998, 38 percent of all U.S. workers had children under the age of 18. Nearly one in five working parents is a single parent; moreover, a fifth of these are single fathers. Labor force participation has also increased in two parent families, with both parents often holding down jobs.

Clearly, this has revolutionized our culture. Child care is a constant personal as well as public policy issue. Grocery stores and other retailers are open later—many catalogues offer round the clock service via the telephone or Internet. Take out meals and delivered pizza, which in the past were often reserved as a special weekend treat, are now commonplace on week nights. Cellular telephone companies even offer special family plans with unlimited calling among family members, for those families entirely on the go.

Workplaces too have changed. Women and men work side by side in nearly every occupation. Many employers attract workers with on-site day care, flexible work arrangements and generous family leave. Take Your Daughter to work day has introduced millions of girls and boys to the world of work.

But not all change has come easy. Many parents have made agonizing choices about work and family. Some have chosen to scale back their careers, move to less demanding jobs, pursue part-time work, or take a few years off. Others have continued in their careers without interruption relying on committed child care or the support of a partner. Each working parent has come to their own decision about how to move forward in their jobs and in their role as parents. And most employers are supportive of these decisions. They recognize that good employees are good employees regardless of their status as parents.

Mr. President, this legislation is not about these employers. Frankly, it is not even about encouraging, much less requiring, work place accommodations of parents and their family obligations—as much as I support those efforts. It is, instead, about those hopefully rare cases where employers discriminate in their employment practices against parents. It is about eliminating bias not about guaranteeing accommodation.

Specifically, the proposed statute would include parental status as a protected class with respect to employment discrimination. Parental status 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 mother or a father 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 be barred.

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 or familial 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 a new mother 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) Federal law protects working parents from employment discrimination in a number of important areas. For instance, title VII of the Civil Rights Act of 1964 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 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.

(d) However, no existing Federal statute protects all workers from employment discrimination on the basis of their status as parents.

(e) Such discrimination against parents occurs where, for example, employers refuse to hire or promote both men and women who are parents based on unwarranted stereotypes or overbroad assumptions about their level of commitment to the work force.

(f) Such discrimination has occurred in the workplace and has been largely unremedied.

(g) Such discrimination occurs in both the private and the public sectors.

(h) Such discrimination—

(1) reduces the income earned by families who rely on the wages of working parents to make ends meet;

(2) prevents the best use of available labor resources;

(3) has been spread and perpetuated, through commerce and the channels and instrumentalities of commerce, among the workers of several States;

(4) burdens commerce and the free flow of goods in commerce;

(5) constitutes an unfair method of competition in commerce; and

(6) 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—

(1) solving problems in the economy created by unfair discrimination against parents;

(2) promoting stable families by enabling working parents to work free from discrimination against parents; and

(3) 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 may bring an action or proceeding under this Act.

(c) ''Covered entity'' means an employer, employment agency, labor 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.

(2) The term ''employee'' includes applicants for employment and former employees.

(f)(1) The term ''employer'' means:

(i) a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h))) who has 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;

(ii) an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies;

(iii) an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies;

(iv) an employing office, as defined in section 101(9) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)); and

(v) an employing office as defined in section 411(c)(2) of title 3, United States Code.

(2) The term ''employer'' does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of title 26, United States Code.

(g) ''Employment agency'' has the meaning given that term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(h) ''Incapable of self-care'' means that the individual needs active assistance or supervision to provide daily self-care in three or more of the ''activities of daily living'' or ''instrumental activities of daily living.'' Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, and similar activities.

(i) ''Labor organization'' has the meaning given that term in sections 701(d) and (e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d), (e)).

(j) ''Office of Compliance'' has the meaning given that term in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.).

(k) ''Parent'' means a person who, with regard to an individual who is under the age of 18, or who is 18 or older but is incapable of self-care because of a physical or mental disability—

(l) 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 or adoption; or

(3) stands in loco parentis to such an individual.

(l) ''Person'' has the meaning given that term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(m) ''Physical or mental disability'' means a physical or mental 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(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

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

(2) to limit, segregate, or classify employees in any way that would deprive, or tend to deprive, any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because 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 membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status of the individual as an employee, because such individual is a parent; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this Act.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because 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 has opposed any act or practice prohibited by this Act or because the employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 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 aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

SEC. 7. OTHER PROHIBITIONS.

(a) COLLECTION OF STATISTICS.—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) An unlawful employment practice is established under this Act when the complaining party demonstrates that—

(1) an individual's status as a parent; or

(2) retaliation, coercion, or threats 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 section, and a 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 in section 11(a) of this Act to award relief—

(1) may grant declaratory relief, injunctive relief (except as provided in clause (2) below), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under this section; and

(2) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment.

SEC. 9. DISPARATE IMPACT.

Notwithstanding any other provision of this Act, the fact that an employment practice has a disparate impact on parents, as the term ''disparate impact'' is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), 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 an employee in a workplace 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) (1) 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 corporation shall be presumed to be engaged in by such covered entity.

(2) This Act shall not apply 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)).

(c) This Act shall not apply to a covered entity with respect to the employment of aliens outside any State.

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 in the case of a claim alleged by an individual for a violation of this Act, the following statutory provisions are hereby incorporated, and shall, along with the provisions in subsection 11(b), establish the powers, remedies, procedures, and jurisdiction that this Act provides to the Equal Employment Opportunity Commission, the Attorney General, the Librarian of Congress, the Office of Compliance and its Board of Directors, the Merit Systems Protection Board, the President, the courts of the United States, and/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 705, 706, 707, 709, 710, 711, and 717 of that Act (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, 2000e–9, 2000e–10, and 2000e–16), and sections 7121, 7701, 7702, and 7703 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 304(b)–(e) of that Act (2 U.S.C. 1202(b)(1), 1220(b)–(e));

(3) for individuals who are covered under section 101(3) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(3)), sections 201(b)(1), 225, and 401–416 of that Act (2 U.S.C. 1311(b)(1), 1361, 1401–1416); and

(4) for individuals who are covered under section 411(c)(1) of title 3, United States Code, sections 411(b)(1), 435, and 451–456 of that title:

(b) ADDITIONAL REMEDIES.—

(1) Notwithstanding any express or implied limitation on the remedies incorporated by reference in subsection 11(a), and except as provided in subsection (b)(2) of this section, 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 covered entity engaged in a discriminatory practice or practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

(2) Notwithstanding subsection 11(b)(1),

(i) absent its consent to a monetary remedy, a State may be liable for monetary relief only in an action brought by the Attorney General in a court of the United States; and

(ii) a State shall not be liable for punitive damages.

(3) Notwithstanding any express or implied limitation on the remedies incorporated by reference in subsection 11(a) or included in subsection 11(b)(2) above,

(i) an individual may bring an action in a district court of the United States for declaratory or injunctive relief against any appropriate State official for a violation of this Act; and

(ii) the Attorney General 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 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 penalty provided under, section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10).

SEC. 14. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections 14(b), (c), (d), and (e) below, the Commission shall have authority to issue regulations to carry out this Act.

(b) LIBRARIAN OF CONGRESS.—The Librarian of Congress shall have authority to issue regulations to carry out this Act with respect to employees of the Library of Congress.

(c) BOARD.—The Board of the Office of Compliance shall have authority to issue regulations to carry out this Act, in accordance with sections 303 and 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1383, 1384), with respect to covered employees as defined in section 101(3) of such Act (2 U.S.C. 1301(3)).

(d) PRESIDENT.—The President shall have authority to issue regulations to carry out this Act with respect to covered employees as defined in section 411(c)(1) of title 3, United States Code.

(e) COMMISSION AND MERIT SYSTEMS PROTECTION BOARD.—The Commission and the Merit Systems Protection Board shall each have authority to issue regulations to carry out this Act with respect to individuals covered by sections 7121, 7701, 7702, and 7703 of title 5, United States Code.

SEC. 15. RELATIONSHIP TO OTHER LAWS.

Nothing in this Act shall affect the interpretation or application of, and this Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under, any other Federal law or any law of a State or political subdivision of a State.

SEC. 16. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstances, is held to be invalid, the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected.

SEC. 17. APPROPRIATIONS.

There are 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.

By Mr. DODD:

S. 1908. A bill to protect students from commercial exploitation; to the Committee on Health, Education, Labor, and Pensions.

STUDENT PRIVACY PROTECTION ACT

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 school-children: 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 routinely 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 commercialized. Schools, 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 Texas A&M, 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 their messages into classrooms. One major spaghetti sauce firm has encouraged science teachers to have their student test different sauces for thickness as part of their science classes. Film makers and television studios promote new releases with special curriculum tied to their movies or shows. In one school, a student was suspended for wearing a Pepsi T-shirt on the school's Coke Day. In another, credit card applications were sent home with elementary school students for their parents and the school collected a fee for every family that signed up.

Mr. President, this is not to say that companies cannot and should not be active partners in our schools. Indeed, business leaders have been some of the strongest advocates for school improvement. Many corporations partner with schools to contribute to the educational mission of the schools, be it through mentoring programs or through donations of technology. Other businesses have become well-known for their scholarship support of promising students. And one cannot imagine a successful, relevant vocational education program without the participation of business.

Each of these activities meets the central test of contributing to student learning. Unfortunately, too much commercial activity in our schools does not. These issues are not black and white. Channel One which is in many, many of our nation's secondary schools offers high quality programming on the news of the day and issues of importance. They provide televisions, VCR's, and satellite dishes along with other significant educational programming. But Channel One is a business; in exchange for all that is good comes advertising.

Teachers, principals and parents are on the front lines of this issue; each day making 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 down-sides 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 for companies to go into classroom and get information directly from children—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 marketing 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 give their 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. These are schools that belong to us, to 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,

SECTION 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. 8891 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, the school, agency, or State shall inquire whether the third party intends to gather, collect, or store information on students, 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.

''(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, as the case may be, and a third party, including the nature of the information to be gathered, how the information will be used, if 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, sponsorships of programs and activities, exclusive agreements, incentive programs, appropriation of space,

sponsored educational materials, electronic marketing, market research, and privatization of management) in elementary and secondary schools receiving funds under the Elementary and Secondary Education Act of 1965;

(2) consider the range of benefits and costs, educational, public health, financial and social, of such commercial arrangements in classrooms; and

(3) consider how commercial arrangements in schools affect student privacy, particularly in regards to new technologies such as the Internet, including the type of information that is collected on students, how it is used, and the manner in which schools inform parents before information is collected.

By Mr. TORRICELLI:

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.

WARTIME VIOLATION OF ITALIAN AMERICAN CIVIL LIBERTIES ACT

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 legislation draws attention 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 suffered.

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. Even 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 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. 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 also 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 this same 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 release the facts about this era. Only then can Italian Americans 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:

S. 1909

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 ''Wartime Violation of Italian American Civil Liberties Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The freedom of more than 600,000 Italian-born immigrants in the United States and their families was restricted during World War II by Government measures that branded them ''enemy aliens'' and included carrying identification cards, travel restrictions, and seizure of personal property.

(2) During World War II more than 10,000 Italian Americans living on the West Coast were forced to leave their homes and prohibited from entering coastal zones. More than 50,000 were subjected to curfews.

(3) During World War II thousands of Italian American immigrants were arrested, and hundreds were interned in military camps.

(4) Hundreds of thousands of Italian Americans performed exemplary service and thousands sacrificed their lives in defense of the United States.

(5) At the time, Italians were the largest foreign-born group in the United States, and today are the fifth largest immigrant group in the United States, numbering approximately 15,000,000.

(6) The impact of the wartime experience was devastating to Italian American communities in the United States, and its effects are still being felt.

(7) A deliberate policy kept these measures from the public during the war. Even 50 years later much information is still classified, the full story remains unknown to the public, and it has never been acknowledged in any official capacity by the United States Government.

SEC. 3. REPORT.

The Inspector General of the Department of Justice shall conduct a comprehensive review of the treatment by the United States Government of Italian Americans during World War II, and not later than 1 year after the date of enactment of this Act shall submit to the Congress a report that documents the findings of such review. The report shall cover the period between September 1, 1939, and December 31, 1945, and shall include the following:

(1) The names of all Italian Americans who were taken into custody in the initial roundup following the attack on Pearl Harbor, and prior to the United States declaration of war against Italy.

(2) The names of all Italian Americans who were taken into custody.

(3) The names of all Italian Americans who were interned and the location where they were interned.

(4) The names of all Italian Americans who were ordered to move out of designated areas under the United States Army's ''Individual Exclusion Program''.

(5) The names of all Italian Americans who were arrested for curfew, contraband, or other violations under the authority of Executive Order 9066.

(6) Documentation of Federal Bureau of Investigation raids on the homes of Italian Americans.

(7) A list of ports from which Italian American fishermen were restricted.

(8) The names of Italian American fishermen who were prevented from fishing in prohibited zones and therefore unable to pursue their livelihoods.

(9) The names of Italian Americans whose boats were confiscated.

(10) The names of Italian American railroad workers who were prevented from working in prohibited zones.

(11) A list of all civil liberties infringements suffered by Italian Americans during World War II, as a result of Executive Order 9066, including internment, hearings without benefit of counsel, illegal searches and seizures, travel restrictions, enemy alien registration requirements, employment restrictions, confiscation of property, and forced evacuation from homes.

(12) An explanation of why some Italian Americans were subjected to civil liberties infringements, as a result of Executive Order 9066, while other Italian Americans were not.

(13) A review of the wartime restrictions on Italian Americans to determine how civil liberties can be better protected during national emergencies.

SEC. 4. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the story of the treatment of Italian Americans during World War II needs to be told in order to acknowledge that these events happened, to remember those whose lives were unjustly disrupted and whose freedoms were violated, to help repair the damage to the Italian American community, and to discourage the occurrence of similar injustices and violations of civil liberties in the future;

(2) Federal agencies, including the Department of Education and the National Endowment for the Humanities, should support projects such as—

(A) conferences, seminars, and lectures to heighten awareness of this unfortunate chapter in our Nation's history;

(B) the refurbishment of and payment of all expenses associated with the traveling exhibit ''Una Storia Segreta'', exhibited at

major cultural and educational institutions throughout the United States; and

(C) documentaries to allow this issue to be presented to the American public to raise its awareness;

(3) an independent, volunteer advisory committee should be established comprised of representatives of Italian American organizations, historians, and other interested individuals to assist in the compilation, research, and dissemination of information concerning the treatment of Italian Americans; and

(4) after completion of the report required by this Act, financial support should be provided for the education of the American public through the production of a documentary film suited for public broadcast.

SEC. 5. FORMAL ACKNOWLEDGEMENT.

The United States Government formally acknowledges that these events during World War II represented a fundamental injustice against Italian Americans.

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.

HUNT HOUSE PURCHASE AUTHORIZATION LEGISLATION

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that would authorize the Secretary of the Interior to purchase the Hunt House in Seneca Falls, New York. This summer the owners of the Hunt House put it on the market for $135,000. Of four historic buildings in Seneca Falls that should be part of the Women's Rights National Historical Park, the Hunt House is the only one that is not. It was the site of the gathering of five women (the founding mothers, you might say) who decided to hold the Nation's first women's rights convention. That convention took place in Seneca Falls in July, 1848. The Women's Rights Park is a monument to the idea they espoused that summer, that women should have equal rights with men; one of the most influential ideas of the last 150 years.

Adding the Hunt House to the Park would complete it. The problem is that the Department was not given the authorization to purchase the Hunt House in the bill I offered 20 years ago so that speculation would not drive up the price of the house when it eventually went on the market. That worked. But now the lack of an authorization should not keep us from being able to acquire the house at all. This bill simply removes the restriction against a fee simple purchase by the Park Service. I hope my colleagues will offer their support, and I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1910

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF HUNT HOUSE.

(a) IN GENERAL.—Section 1601(d) of Public Law 97–607 (94 Stat. 3547; 16 U.S.C. 410*ll*(d)) is amended—

(1) in the first sentence—

(A) by inserting a period after ''park''; and

(B) by striking the remainder of the sentence; and

(2) by striking the last sentence.

(b) TECHNICAL CORRECTIONS.—Section 1601(c)(8) of Public Law 97–607 (94 Stat. 3547; 16 U.S.C. 410*ll*(c)(8)) is amended by striking ''Williams'' and inserting ''Main''.●

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.

ATLANTIC HIGHLY MIGRATORY SPECIES ACT

● Mr. BREAUX. 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 cosponsored 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 where swordfish and billfish are caught with other fish. Essentially, more than 160,000 square nautical miles in the Atlantic Ocean and Gulf of Mexico would become a conservation area to rebuild populations of swordfish, sailfish, tuna, marlin and sharks.

Recognizing the economic impact on commercial fishermen, the legislation provides a fair and equitable program for longline vessel owners who are adversely impacted by the fishing prohibition. Funding of the permit buyback program would come through a partnership of the recreational and commercial fishing industries and federal funds.

The bill also directs the National Marine Fisheries Service to conduct a comprehensive research program in cooperation with the U.S. longline fleet to identify and test a variety of longline gear configurations to determine which are the most effective at reducing billfish bycatch in the Atlantic and Gulf of Mexico.

I believe that a true solution to the bycatch issue will require international cooperation. Ironically, next week the U.S. Commissioners to the International Commission for the Conservation of Atlantic Tunas (ICCAT) will be meeting in Brazil to consider many challenging issues, including a rebuilding plan for the north Atlantic stock of swordfish.

Under the bill we introduce today, we are taking a bold first step to address the problems in our own coastal waters. I am confident that this first step will serve as an example to the international community on focusing much needed attention to this important issue.●

● Mr. HOLLINGS. Mr. President, I rise today to join my colleague, Senator BREAUX, in introducing the Atlantic Highly Migratory Species Conservation Act of 1999. I am pleased to co-sponsor this legislative effort to promote conservation and bycatch reduction of small swordfish, billfish, and other highly migratory species.

The Atlantic Highly Migratory Species Conservation Act would create time-area closures for pelagic longline fishing along 160,000 miles of the Atlantic and the Gulf of Mexico coasts. These closures include the three major spawning areas where a significant portion of juvenile swordfish and billfish bycatch mortality occurs. I am particularly pleased to see that these closures encompass the coastal waters of my home state of South Carolina and particularly a highly productive swordfish spawning and nursery ground, the Charleston Bump. In conjunction with the closures, the bill would reduce fishing capacity by retiring approximately 68 longline vessels from the commercial fishery through a fair and equitable program funded by the federal government and the recreational and commercial fishing industries. In addition, the Act would establish a research program, in conjunction with the National Marine Fisheries Service, to study longline gear and potential gear improvements. All too frequently we are forced to make fisheries management decisions with too little information; these research provisions will provide data crucial for management of highly migratory species.

The current proposal results from arduous work and negotiation among commercial and recreational fishing groups including the Coastal Conservation Association, the American Sportsfishing Association, the Billfish Foundation, and the Blue Water Fisherman's Association. I commend these groups for their cooperation in developing this truly constructive conservation plan based on extensive analyses of the best available science. I also approve of their effort to make this bill consistent with the principles governing capacity reduction established in the Magnuson-Stevens Fishery Conservation and Management Act.

The introduction of the Atlantic Highly Migratory Species Conservation Act of 1999 couldn't come at a better time. Many of the highly migratory

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 bycatch and widespread disregard 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 nations.

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, ICCAT will convene in Rio de Janero, 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 to ensure that this legislation is part of an effective national plan that ensures recovery of the North Atlantic swordfish stock within 10 years in a manner consistent with the goals of the Magnuson-Stevens Act.●

● Mr. KERRY. Mr. President, I rise today to co-sponsor a bill introduced by Mr. BREAUX, that is called the Atlantic Highly Migratory Species Act of 1999.

This legislation closes large areas to longline gear, including the important spawning areas where juvenile bycatch of swordfish and other billfish species are the highest. This legislation will also provide a fair and equitable program for longline vessel owners who are adversely impacted by the fishing prohibition. Funding of the permit buyback program would come through a partnership of the recreational and commercial fishing industries and federal funds. Lastly, this legislation directs the National Marine Fisheries Service to conduct a comprehensive research program in cooperation with the U.S. longline fleet to identify and test a variety of longline gear configurations to determine which are the most effective at reducing billfish bycatch in the Atlantic and Gulf of Mexico.

We are introducing this legislation at an important time. It will serve as an example to show the international community at next week's negotiations in Brazil, at the International Commission for the Conservation of Atlantic Tunas (ICCAT), that the U.S. embraces use of time-area closures to help swordfish recover.

I believe that this legislation will serve as one prong, of a two-prong U.S. strategy in international negotiations on swordfish quotas that ensures the total mortality of swordfish, including discards, is limited to levels that will allow the stock to recover in 10 years.

I look forward to working with Mr. BREAUX and other cosponsors of the bill to ensure that this legislation is both 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):

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.

THE ELECTRONIC COMMERCE TECHNOLOGY PROMOTION ACT

● 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 a staggering $1 trillion by 2003, according to market research reports.

The basis for the growth of electronic commerce is 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, commonly 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. Our industries are at 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 economy as well as the global market.

For the electronic commerce market to sustain its current phenomenal growth rate, companies must be allowed to be agile 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 wherever 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 electronic commerce 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 position, 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 Technologies (NIST) that will act as a centralized resource of 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 that the Center be organized as a matrix organization that will coordinate existing as well as future activities at the Institute on electronic commerce.

The Center will also coordinate its activities with the Department of Commerce's Manufacturing Extension Program (MEP) and the Small Business Administration to 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 enlarge or 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 this growth as well as do our best to enable the market to sustain its current phenomenal 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 at the National Institutes 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 crucial, and Congress realized that one key to sustaining our industrial growth and the quality of our products would be a federal laboratory devoted to developing standards. The Bureau of Standards is a classic example of how the federal government can support technical progress that undergirds economic growth and enables the competitive marketplace to work.

Around ten years ago, Congress modified the Bureau's charter in 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 as they were 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. 1494, 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—to be the most competitive in the world.

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.

THE AK-CHIN WATER RIGHTS SETTLEMENT ACT AMENDMENTS OF 1999

● Mr. McCAIN. Mr. President, I rise on behalf of myself and my colleague, Senator KYL, 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 company 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 providing 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 that sufficient 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. The Arizona Department of Water Resources advised the company that it interprets its regulations to require Del Webb to demonstrate that water leased under the agreement with the Community will be available for a period of 100 years from the date each certificate issued. Under ADWR's interpretation, if Del Webb applies for a certificate of assured water supply on December 6, 1999, it must show that water will be available under the lease agreement until December 6, 2099. However, because Del Webb exercised its option in 1996, the lease agreement between Del Webb and the Community will expire on December 6, 2096, 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 what is required is a simple 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 to Del Webb for a cumulative term that would expire more than 100 years from today.

Mr. President, this legislation will make a technical change to the Ak-Chin Water Rights Settlement Act 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

supportive of this amendment. Therefore, it is our hope that we can move this legislation quickly.

I ask to include a complete text of the legislation in the RECORD.

The bill follows:

S. 1913

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSTITUTIONAL AUTHORITY.

The Constitutional authority for this Act rests in article I, section 8, authorizing Congress to ''regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes''.

SEC. 2. TECHNICAL AMENDMENTS TO AK-CHIN WATER USE ACT OF 1984.

(a) SHORT TITLE.—This section may be cited as the ''Ak-Chin Water Use Amendments Act of 1999''.

(b) AUTHORIZATION OF USE OF WATER.—Section 2(j) of the Act of October 19, 1984 (Public Law 98–530; 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 devote the permanent water supply provided for 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 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 or temporarily 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 100 years and the Community may not permanently alienate any water right. In the event the Community leases, enters into an option to lease, renews an option to lease, extends a 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.''.

(c) APPROVAL OF LEASE AND AMENDMENT OF LEASE.—The option and lease agreement among the Ak-Chin Indian Community, the United States, and Del Webb Corporation, dated as of December 14, 1996, and the Amendment Number One thereto among the Ak-Chin Indian Community, the United States, and Del Webb Corporation, dated as of January 7, 1999, are hereby ratified and approved. The Secretary of the Interior is hereby authorized and directed to execute Amendment Number One, and the restated agreement as provided for in Amendment Number One, not later than 60 days after the date of the enactment of this Act.●

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 address a 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 homeowners and businesses while protecting the interests of the taxpayer. I am pleased my friend from Texas, Senator HUTCHISON, has joined me in this effort. I believe our approach is an innovative, private-sector solution to the problem of catastrophic risk 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 loss. However, protection for policyholders in today's system is weak; a major future catastrophe could leave consumers without protection and—if 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 is exposed to multiple forms 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 and the Northridge Earthquake 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, insured losses could 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 $100 billion or more in areas of the Midwest. The Gulf, Intermountain West, 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 private market preparation for future major disasters. Present tax laws do not permit portions of consumers' insurance policy payments to be set aside and tax deferred in order to provide for the risk of truly catastrophic loss events. Ironically, our tax system allows insurers to set aside funds on a tax-deductible basis to address disasters that have already happened but it gives them no incentive to prepare for those major disasters that have not yet happened.

Policyholder premiums needed to fund policyholders' catastrophic losses in future years are subject to current tax if not used in a particular year. This diminishes the power of insurers to protect policyholders against future losses. This structure is inadequate for assuring that property-casualty policies will protect consumers from future major catastrophic losses.

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 a major U.S. accounting firm determined that 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 would 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 use these 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 losses in a year exceed the 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 those 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 MATSUI in the House of Representatives. 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 it is a sensible approach and I hope my colleagues will join me in this effort.●

By Mr. JEFFORDS (for himself, Mr. CRAPO, 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.

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 input into the regulatory review process, clearer and simpler environmental guidelines, and more assistance in meeting environmental obligations.

This legislation acts on the recommendations of people from small communities throughout the United Stats. 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 thank 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. Together, we can 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 communications and cooperation between the U.S. Environmental Protection Agency and smaller communities. By establishing a Small Town Ombudsman Office in each of EPA's regions, 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.

By 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 of towns, governmental agencies, and public interest groups from across the country. Cherie Aiazzi of Carlin, a town of about 2800 people in northern Nevada, contributed

her time, insight and creativity to this task force and I know that perspectives 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 Community Assistance Act of 1999 provides an valuable 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. Some say 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.

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. With 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 noted, with crime rates down and incomes up, ''unspeakable crimes are no longer spoken of, murder is what happens to your portfolio on a bad day, 'family values' are debated through the Internal Revenue code, and the 'death penalty' is [often used as a term for] a tax issue.'' What has happened to our nation's sense of striving to do what we know to be the right thing? Those who favor the death penalty should be pressed to explain why fallible human beings should presume to use the power of the state to extinguish the life of a fellow human being on our collective behalf. Those who oppose the death penalty should demand that explanation adamantly, and at every turn. But only a zealous few try.

Our nation is a great nation. We have the strongest democracy in the world. We have expended blood and treasure to protect so many fundamental human rights at home and abroad and not always for only our own interests. But we can do better. Mr. President, we should do better. And we should use this moment to do better as we step not only into a new century but also a new millennium, the first such landmark since the depths of the Middle Ages.

Courtesy of the Internet and CNN International, the world observes, perplexed and sometimes horrified, the violence in our nation. When the Littleton tragedy erupted, newspapers all over the world marveled at how readily available guns are to American children. And across the globe, with every American who is executed, the entire world watches and asks how can the Americans, the champions of human rights, compromise their own professed beliefs in this way.

Religious groups and leaders express their revulsion at the continued practice of capital punishment. Pope John Paul II frequently appeals to American governors when a death row inmate is about to die. I am pleased that in a recent case, involving an inmate on death row in Missouri, the Missouri governor heeded the good advice of the pontiff and commuted the killer's sentence to life without parole. That case generated a lot of press—but only as a political issue, rather than a moral question or a human rights challenge.

But the Pope is not standing alone against the death penalty. He is joined by the chorus of voices of various people of faith who abhor the death penalty. Religious groups from the National Conference of Catholic Bishops, the United Methodist Church, the Presbyterian Church, the Evangelical Lutheran Church in America, the Mennonites, the Central Conference of American Rabbis, and so many more people of faith have proclaimed their opposition to capital punishment. And, I might add, even conservative Pat ROBERTSon protested the execution in 1998 of Karla Faye Tucker, a born-again Christian on Texas death row. Mr. President, I would like to see the commutation of sentences to life without parole for all death row inmates—whether they are Christians, Muslims, Jews, Buddhists, or some other faith, or no faith at all.

The United States' casual imposition of capital punishment is abhorrent not only to many people of faith. Our use of the death penalty also stands in stark contrast to the majority of nations that have abolished the death penalty in law or practice. Even Russia and South Africa—nations that for years were symbols of egregious violations of basic human rights and liberties—have seen the error of the use of the death penalty. The United Nations Commission on Human Rights has called for a worldwide moratorium on the use of the death penalty. And soon, Italy and other European nations are expected to introduce a resolution in the UN General Assembly calling for a worldwide moratorium.

The European Union denies membership in their alliance to those nations that use the death penalty. In fact, the European Union recently warned Turkey that if it executes the Kurdish leader, Abdullah Ocalan, Turkey would jeopardize its membership application. Just this past December, the European Union actually passed a resolution calling for the immediate and unconditional global abolition of the death penalty, and it specifically called on all states within the United States to abolish the death penalty. This is significant because it reflects the unanimous view of the nations with which the United States enjoys its closest relationships—nations that so often follow our lead.

Mr. President, what is even more troubling in the international context is that the United States is now one of only six countries that imposes the death penalty for crimes committed by children. I'll repeat that because it is remarkable. We are one of only six nations on this earth that puts to death people who were under 18 years of age when they committed their crimes. The others are Iran, Pakistan, Nigeria, Saudi Arabia and Yemen. These are countries that are often criticized for human rights abuses. And let's look at the numbers. Since 1990, the United States has executed ten child offenders. That's more than any one of these five other countries and equal to all five countries combined. Even China —the country that many members of Congress, including myself, have criticized for its human rights violations—apparently has the decency not to execute its children. This is embarrassing. Is this the kind of company we want to keep? Is this the kind of world leader we want to be? But these are the facts for this past decade, 1990 to the present.

Now, let's look at the last two years. In the last two years, the United States has been the only nation in the world to put to death people who were minors when they committed their crimes. We have executed four child offenders during the last two years. Today, over 70 child offenders remain on death row. No one, Mr. President, no one can reasonably argue that based on this data, executing child offenders is a normal or acceptable practice in the world community. And I don't think we should be proud of the fact that the United States is the world leader in the execution of child offenders.

Is the death penalty a deterrent for our children's conduct, as well as that

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 logic of death penalty supporters 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 not even close. 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 192 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 reducing crime, along with a 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, from around the country, 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 the 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 whether they support the 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 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 we have put innocent people on death row. 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 persons 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, awaiting a firing squad, lethal injection or electrocution, but later found innocent. That's one death row inmate found innocent for every seven executed. One in seven! That's a pretty poor performance for American justice. A wrong conviction means that the real killer may have gotten away. The real killer may still be on the loose and a threat to society. What an injustice that the victims' loved ones cannot rest because the killer is still not caught. What an injustice that an innocent man or woman has to spend even one day in jail. What a staggering injustice that innocent people are sentenced to death for crimes they did not commit. What a disgrace when we carry out those 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 sentenced to death for the rape and murder of 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 the students' efforts, 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 is sometimes far from just and that 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 sometimes far from fair and far from just. We can all agree that it is profoundly wrong to convict and condemn innocent people to death. But sadly, that's what's happening. With the greater accuracy and sophistication of DNA testing available today compared to even a couple of years ago, states like Illinois are finding that people sitting on death row did not commit the crimes to which earlier, less accurate DNA tests appeared to link them. This DNA technology should be further reviewed and compared to other tests. We should consider the role of DNA tests in all those committed to death row.

Some argue that the discovery of the innocence of a death row inmate proves that the system works. This is absurd. How can you say the criminal justice system works when a group of students—not lawyers or investigators but students with no special powers, who were very much outside the system—discover that a man about to be executed was in fact innocent? That's what happened in Illinois to Ronald Jones. The system doesn't work. It has failed us.

A primary reason why justice has been less than just is a series of Supreme Court decisions that seem to fail to grasp the significance and responsibility of their task when a human life is at stake. The Supreme Court has been narrowly focused on procedural technicalities, ignoring the fact that the death penalty is a unique 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 life without possibility of parole. As a result, some jurors were 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 severe yet morally 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 potentially dispositive 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 moral and political will. We have come a long way through this nation's history, and especially in this century, to dismantle state-sponsored and societal racism. Brown v. Board of Education, ensuring the right to equal educational opportunities for whites and blacks, was decided only 45 years ago. Unfortunately, however, we are still living with vestiges of institutional racism. In some cases, racism can be found at every stage of a capital trial—in the selection of jurors, during the presentation of evidence, when the prosecutor contrasts the race of the victim and defendant to appeal to the prejudice of the jury, and sometimes during jury deliberations.

After the 1976 Supreme Court Gregg decision upholding the use of the death penalty, the death penalty was first enacted as a sentence at the federal level with passage of the Drug Kingpin Statute in 1988. Since that time, numerous additional federal crimes have become death penalty-eligible, bringing the total to about 60 statutes today. At the federal level, 21 people have been sentenced to death. Another eight men sit on the military's death row. Of those 21 defendants on the federal government's death row, 14 are black and only 5 are white. One defendant is Hispanic and another Asian. That means 16 of the 21 people on federal death row are minorities. That's just over 75%. And the numbers are worse on the military's death row. Seven of the eight, or 87.5%, on military death row are minorities.

Some of my colleagues may remember the debates of the late 1980's and early 1990's, when Congress considered the Racial Justice Act and other attempts to eradicate racism in the use of capital punishment. A noted study evaluating the role of race in death penalty cases was frequently discussed. This was the study by David Baldus, a professor at the University of Iowa College of Law. The Baldus study found that defendants who kill white victims are more than four times more likely to be sent to death row than defendants who kill black victims. An argument against the Baldus study was made by some opponents of the Racial Justice Act. They argued that we just needed to ''level up'' the playing field. In other words, send all the defendants who killed black victims to death row, too. They argued that legislative remedies were not needed, just tell prosecutors and judges to go after perpetrators of black homicide as strongly as against perpetrators of white homicide.

In theory, this may sound reasonable but one thing is clear: no matter how hard we try, we cannot overcome the inevitable fallibility of being human. That fallibility means that we will not be able to apply the death penalty in a fair and just manner. We will always run the risk that we will condemn innocent people to death. Mr. President, let's restore some certainty, 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 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.

I am glad to see that some states are finally 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, 1979. I vividly remember that day. I had just finished my last law school exam 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 earlier history.

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 584 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 one year, 84—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 hit close to 100 executions this year. 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 human rights records of other nations. 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 rules that would lend more than the mere appearance of fairness to the death penalty endeavor. Rather than continue to coddle the Court's delusion that the desired level of fairness has been achieved and the need for regulation eviscerated, 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. The basic question—does the system accurately and consistently determine which defendants ''deserve'' to die?—cannot be answered in the affirmative. . . . The problem is that the inevitability of factual, legal, and moral error gives us a system that we know must wrongly kill some defendants, a system that fails to deliver the fair, consistent, and reliable sentences of death required by the Constitution.

Justice Lewis Powell also had a similar change of mind. Justice Powell dissented from the Furman decision in 1972, which struck down 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 biographer that he had decided that capital punishment should be abolished.

After sitting on our nation's highest court for over 20 years, Justices Blackmun and Powell came to understand the randomness and unfairness of the death penalty. Mr. President, it is time for our nation to follow the lead of these two distinguished jurists and

re-visit 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 at odds with our best traditions. It is wrong and it is immoral. The adage ''two wrongs do not make a right,'' could not be more appropriate here. Our nation has long ago done away with other barbaric punishments like whipping and cutting 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 leader and defender 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 criminal 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 leave this archaic practice behind.

Mr. President, I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Death Penalty Abolition Act of 1999''.

SEC. 2. REPEAL OF FEDERAL LAWS PROVIDING FOR THE DEATH PENALTY.

(a) HOMICIDE-RELATED OFFENSES.—

(1) MURDER RELATED 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 or''.

(2) 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''.

(3) 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''

(4) MURDER COMMITTED AT AN AIRPORT SERVING INTERNATIONAL CIVIL AVIATION.—Section 37(a) of title 18, United States Code, is amended, in the matter following paragraph (2), by striking ''punished by death or''.

(5) CIVIL RIGHTS OFFENSES RESULTING IN DEATH.—Chapter 13 of title 18, United States Code, is amended—

(A) in section 241, by striking '', or may be sentenced to death'';

(B) in section 242, by striking '', or may be sentenced to death'';

(C) in section 245(b), by striking '', or may be sentenced to death''; and

(D) in section 247(d)(1), by striking '', or may be sentenced to death''.

(6) MURDER OF A MEMBER OF CONGRESS, AN IMPORTANT EXECUTIVE OFFICIAL, OR A SUPREME COURT JUSTICE.—Section 351 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 ''death or''.

(7) 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'';

(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)''.

(8) MURDER COMMITTED BY USE OF A FIREARM DURING COMMISSION OF A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.—Section 924(j)(1) of title 18, United States Code, is amended by striking ''by death or''.

(9) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking ''death or''.

(10) FIRST DEGREE MURDER.—Section 1111(b) of title 18, United States Code, is amended by striking ''by death or''.

(11) MURDER BY A FEDERAL PRISONER.—Section 1118 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''by death or''; and

(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''.

(12) 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 or''; and

(B) in subsection (b)(1), by striking ''or death''.

(13) MURDER DURING A KIDNAPING.—Section 1201(a) of title 18, United States Code, is amended by striking ''death or''.

(14) MURDER DURING A HOSTAGE-TAKING.—Section 1203(a) of title 18, United States Code, is amended by striking ''death or''.

(15) MURDER WITH THE INTENT OF PREVENTING TESTIMONY BY A WITNESS, VICTIM, OR INFORMANT.—Section 1512(a)(2)(A) of title 18, United States Code, is amended by striking ''the death penalty or''.

(16) MAILING OF INJURIOUS ARTICLES WITH INTENT TO KILL OR RESULTING IN DEATH.—Section 1716(i) of title 18, United States Code, is amended by striking ''to the death penalty or''.

(17) ASSASSINATION OR KIDNAPING RESULTING IN THE DEATH OF THE PRESIDENT OR VICE PRESIDENT.—Section 1751 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 ''death or''.

(18) MURDER FOR HIRE.—Section 1958(a) of title 18, United States Code, is amended by striking ''death or''.

(19) MURDER INVOLVED IN A RACKETEERING OFFENSE.—Section 1959(a)(1) of title 18, United States Code, is amended by striking ''death or''.

(20) WILLFUL WRECKING OF A TRAIN RESULTING IN DEATH.—Section 1992(b) of title 18, United States Code, is amended by striking ''to the death penalty or''.

(21) BANK ROBBERY-RELATED MURDER OR KIDNAPING.—Section 2113(e) of title 18, United States Code, is amended by striking ''death or''.

(22) MURDER RELATED TO A CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking '', or sentenced to death''.

(23) MURDER RELATED TO AGGRAVATED CHILD SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by striking ''unless the death penalty is imposed,''.

(24) MURDER RELATED TO SEXUAL ABUSE.—Section 2245 of title 18, United States Code, is amended by striking ''punished by death or''.

(25) MURDER RELATED TO SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(d) of title 18, United States Code, is amended by striking ''punished by death or''.

(26) MURDER COMMITTED DURING AN OFFENSE AGAINST MARITIME NAVIGATION.—Section 2280(a)(1) of title 18, United States Code, is amended by striking ''punished by death or''.

(27) MURDER COMMITTED DURING AN OFFENSE AGAINST A MARITIME FIXED PLATFORM.—Section 2281(a)(1) of title 18, United States Code, is amended by striking ''punished by death or''.

(28) TERRORIST MURDER OF A UNITED STATES NATIONAL IN ANOTHER COUNTRY.—Section 2332(a)(1) of title 18, United States Code, is amended by striking ''death or''.

(29) MURDER BY THE USE OF A WEAPON OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''punished by death or''; and

(B) in subsection (b), by striking ''by death, or''.

(30) MURDER BY ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(c)(1) of title 18, United States Code, is amended by striking ''by death, or''.

(31) MURDER INVOLVING TORTURE.—Section 2340A(a) of title 18, United States Code, is amended by striking ''punished by death or''.

(32) MURDER RELATED TO A CONTINUING CRIMINAL ENTERPRISE OR RELATED MURDER OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) 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.]''.

(33) DEATH RESULTING FROM AIRCRAFT HIJACKING.—Section 46502 of title 49, United States Code, is amended—

(A) in subsection (a)(2), by striking ''put to death or''; and

(B) in subsection (b)(1)(B), by striking ''put to death or''.

(b) NON-HOMICIDE RELATED OFFENSES.—

(1) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking ''punished by death or'' and all that follows before the period and inserting ''imprisoned for any term of years or for life''.

(2) TREASON.—Section 2381 of title 18, United States Code, is amended by striking ''suffer death, or''.

(c) REPEAL OF CRIMINAL PROCEDURES RELATING TO IMPOSITION OF DEATH SENTENCE.—

(1) IN GENERAL.—Chapter 228 of title 18, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by striking the item relating to chapter 228.

SEC. 3. PROHIBITION ON IMPOSITION OF DEATH SENTENCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no person may be sentenced to death or put to death on or after the date of enactment of this Act for any violation of Federal law .

(b) PERSONS SENTENCED BEFORE DATE OF ENACTMENT.—Notwithstanding any other provision of law, any 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 to 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 health care 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 illness, there will be no waiting period. They would qualify for Medicare immediately and could get the health care they need.

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,

SECTION 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. 426) is amended by adding at the end the following:

''(j)(1) Notwithstanding subsection (f), each individual with a terminal illness (as defined in paragraph (2)) who would be described in subsection (b) but for the requirement that the individual has been entitled to the specified benefits for 24 months shall be entitled to hospital insurance benefits under part A of title XVIII for each month beginning with the latest of—

''(A) the first month after the expiration of the 24-month period,

''(B) in the case of a qualified railroad retirement beneficiary (as defined in subsection (d)), the first month of the individual's entitlement or status as such a beneficiary, or

''(C) the date of enactment of the Medicare for Individuals With Terminal Illnesses Act of 1999.

''(2) As used in this subsection, the term 'terminal illness' means a medically determinable physical impairment which is expected to result in the death of such individual within the next 24 months.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF1974.—Section 7(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)(2)) is amended—

(A) in clause (i), by striking ''or'' at the end;

(B) in clause (ii), by striking the comma at the end and inserting ''; or''; and

(C) by inserting after clause (ii) the following:

''(iii)(I) has not attained age 65;

''(II) has a terminal illness (as defined in section 226(j)(2) of the Social Security Act); and

''(III) is entitled to an annuity under section 2 of this Act, or under the Railroad Retirement Act of 1937 and section 2 of this Act, or could have been includable in the computation of an annuity under section 3(f)(3) of this Act, and could currently be entitled to monthly insurance benefits under section 223 of the Social Security Act or under section 202 of that Act on the basis of disability if service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act and if an application for disability benefits had been filed,''.

(2) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(A) DESCRIPTION OF PROGRAM.—Section 1811 of the Social Security Act (42 U.S.C. 1395c) is amended by striking ''and (3)'' and inserting ''(3) individuals under age 65 who have a terminal illness (as defined in section 226(j)(2)) and who are eligible for benefits under title II of this Act (or would have been so entitled to such benefits if certain government employment were covered under such title) or under the railroad retirement system on the basis of a disability, and (4)''.

(B) HOSPITAL INSURANCE BENEFITS FOR DISABLED INDIVIDUALS WHO HAVE EXHAUSTED THEIR ENTITLEMENT.—Section 1818A of the Social Security Act (42 U.S.C. 1395i–2a) is amended—

(i) in subsection (a)(2)(A), by striking ''section 226(b)'' and inserting ''subsection (b) or (j) of section 226'';

(ii) in subsection (a)(2)(C), by striking ''section 226(b)'' and inserting ''subsection (b) or (j) of section 226'';

(iii) in subsection (b)(2), by striking ''section 226(b)'' and inserting ''subsection (b) or (j) of section 226''; and

(iv) in subsection (d)(1)(B)(ii), by striking ''section 226(b)'' and inserting ''subsection (b) or (j) of section 226''.

(C) ENROLLMENT PERIODS.—Section 1837 of the Social Security Act (42 U.S.C. 1395p) is amended—

(i) in subsection (g)(1), by inserting ''but does not satisfy the requirements of section 226(j)'' after ''section 226(b)''; and

(ii) in subsection (i)(4)(A), by striking ''section 226(b)'' and inserting ''subsection (b) or (j) of section 226''.

(D) EXCLUSIONS FROM COVERAGE AND MEDICARE AS SECONDARY PAYER.—Section 1862(b)(1)(B)(i) 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''.

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to any application for hospital insurance benefits submitted to the Secretary of Health and Human Services on or after the date of enactment of this Act.

MEDICARE FOR INDIVIDUALS WITH TERMINAL ILLNESSES ACT—LIST OF ENDORSEMENTS

ORGANIZATIONS (44)

AIDS Legal Referral Panel—San Francisco, Altamed Health Services—Los Angeles, Alzheimer's Aid Society—Sacramento, American Diabetes Association, African American Chapter—Los Angeles, American Lung Association of California—Sacramento, Asian American Drug Abuse Program, Inc. (AADAP)—Los Angeles, California Prevention and Education Project (CALPEP)—Oakland, California Hospice and Palliative Care Association (CHAPCA)—Sacramento, California Coalition of United Cerebral Palsy Associations—Sacramento, Camarillo Hospice—Camarillo, Caring for Babies with AIDS—Los Angeles, City of Los Angeles, Common Ground Community Center—Santa Monica, County of Sacramento, Covenant House California—Hollywood, Dolores Street Community Services—San Francisco, Families First—Davis, The Family Link—San Francisco, Feedback Foundation—Anaheim, Friends of Chelation Society—Palm Springs, Homeowner Options for Massachusetts Elders—Boston, Massachusetts, and Hospice Education Institute—Essex, Connecticut.

Hospice of Marin—Corte Madera, Lambda Letters Project—Carmichael, Legal Center for the Elderly and Disabled—Sacramento, Mental Health Association of Sacramento, Mission Neighborhood Health Center—San Francisco, National Organization for Rare Disorders—New Fairfield, Connecticut, National Health Federation—Monrovia, California, Neptune Society—San Francisco,

New Village Project—Los Angeles, Ohlhoff Recovery Programs—San Francisco, Parkinson's Disease Association of the Sacramento Valley, Retired Senior Volunteer Program—Santa Barbara, Sacramento AIDS Foundation, San Francisco Community Clinic Consortium, Serra Project—Los Angeles, Shascade Community Services—Redding, Vital Options—Sherman Oaks, Westside Community Mental Health Center, Inc.—San Francisco, Women and Children's Family Services, Yolo Hospice—Davis, YMCA of Greater Sacramento, and YWCA of Sacramento.

INDIVIDUALS (10)

Barbara Kaufman—Member, SFBOS, Sue Bierman—Member, SFBOS, Ricardo Hernandez—Public Administrator/Public Guardian, City & County of SF, Steve Cohn—Member, Sacramento City Council, Eve Meyer—Executive Director, San Francisco Suicide Prevention, Mike McGowan—Member, Yolo County Board of Supervisors, Rev. Gwyneth MacKenzie Murphy—Associate Pastor, Grace Cathedral, Teresa Brown—Program Coordinator, HIV Services Division, Alameda County Medical Ctr., Lois Wolk—Yolo County Supervisor, Sarah Bennett—Executive Director, Ad Hoc Committee to Defend Health Care—Cambridge, MA.

By Mr. DODD (for himself and Mr. LEAHY):

S. 1919. A bill to permit travel to or from Cuba by United States citizens and lawful resident aliens of the United States; to the Committee on Foreign Relations.

THE FREEDOM TO TRAVEL TO CUBA ACT OF 2000

● Mr. DODD. Mr. President, today my colleague, Senator LEAHY and I are introducing ''The Freedom to Travel to Cuba Act of 2000.'' We believe the time has come to lift the very archaic, counterproductive, and ill-conceived ban on Americans traveling to Cuba. Not only does this ban hinder rather than help our effort to spread democracy, it unnecessarily abridges the rights of ordinary Americans. The United States was founded on the principles of liberty and freedom. Yet when it comes to Cuba, our Government abridges these rights with no greater rationale than political and rhetorical gain.

Cuba lies just 90 miles from America's shore. Yet those 90 miles of water might as well be an entire ocean. We have made a land ripe for American influence forbidden territory. In doing so, we have enabled the Cuban regime to be a closed system with the Cuban people having little contact with their closest neighbors.

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 you can travel to Iran, where they held American hostages for months on end, to North Korea, which has declared us to 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. Just two decades ago, Iran occupied our Embassy 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 surroundings 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. travel restrictions to Cuba. We ban travel to Cuba, a nation which is neither at war with the United States nor a sponsor of international terrorist activities. Why do we ban travel? Ostensibly so that we can pressure Cuban authorities into making the transition to a democratic form of government.

I fail to see how isolating the Cuban people from democratic values and ideals will foster the transition to democracy in that country. I fail to see how isolating the Cuban people from democratic values and from the influence of Americans when they go to that country to help bring about the change we all seek serves our own interests.

The Cuban people are not currently permitted the freedom to travel enjoyed by many peoples around the world. However, because Fidel Castro does not permit Cubans to leave Cuba and come to this country is not justification for adopting a similar principle in this country that says Americans cannot travel freely. We have a Bill of Rights. We need to treasure and respect the fundamental rights that we embrace as American citizens. Travel is one of them. If other countries want to prohibit us from going there, then that is their business. But for us to say that citizens of Connecticut or Alabama cannot go where they like is not the kind of restraint we ought to put on people.

If Americans can travel to North Korea, to the Sudan, to Iran, then I do not understand the justification for saying that they cannot travel to Cuba. I happen to believe that by allowing Americans to travel to Cuba, we can begin to change the political climate and bring about the changes we all seek in that country.

Today, every single country in the Western Hemisphere is a democracy, with one exception: Cuba. American influence through person-to-person and cultural exchanges was a prime factor in this evolution from a hemisphere ruled predominantly by authoritarian or military regimes to one where democracy is the rule. Our current policy toward Cuba blocks these exchanges and prevents the United States from using our most potent weapon in our effort to combat totalitarian regimes, and that is our own people. They are the best ambassadors we have. Most totalitarian regimes bar Americans from coming into their countries for the very reasons I just mentioned. They are afraid the gospel of freedom will motivate their citizens to overthrow dictators, as they have done in dozens of nations over the last half century. Isn't it ironic that when it comes to Cuba we do the dictator's bidding for him in a sense? Cuba does not have to worry about America spreading democracy. Our own Government stops us from doing so.

Let me review for my colleagues who may travel to Cuba under current Government regulations and under what circumstances. The following categories of people may travel to Cuba without applying to the Treasury Department for a specific license to travel. They are deemed to be authorized to travel under so-called general license: Government officials, regularly employed journalists, professional researchers who are ''full time professionals who travel to Cuba to conduct professional research in their professional areas'', Cuban Americans who have relatives in Cuba who are ill (but only once a year.)

There are other categories of individuals who theoretically are eligible to travel to Cuba as well, but they must apply for a license from the Department of the Treasury and prove they fit a category in which travel to Cuba is permissible. What are these categories? The first is so called freelance journalists, provided they can prove they are journalists; they must also submit their itinerary for the proposed research. The second is Cuban Americans who are unfortunate enough to have more than one humanitarian emergency in a 12-month period and therefore cannot travel under a general license. The third is students and faculty from U.S. academic institutions that are accredited by an appropriate national or regional educational accrediting association who are participating in a ''structural education program.'' The fourth is members of U.S. religious organizations. The fifth is individuals participating in public performances, clinics, workshops, athletic and other competitions and exhibitions. If that isn't complicated enough—just because you think you may fall into one of the above enumerated categories does not necessarily mean you will actually be licensed by the U.S. Government to travel to Cuba.

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 these 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 specious. The regime seems to have survived 38 years despite the Draconian U.S. 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 without basis, in my view.

This spring, we got a taste of what people-to-people exchanges between the United States and Cuba might mean when the Baltimore Orioles and the Cuban National Team played a home-and-home series. The game brought players from two nations with the greatest love of baseball together for the first time in generations. It is time to bring the fans together. It is time to let Americans and Cubans meet in the baseball stands and on the streets of Havana.

Political rhetoric is not sufficient reason to abridge the freedoms of American citizens. Nor is it sufficient reason to stand by a law which counteracts one of the basic premises of American foreign policy; namely, the spread of democracy. The time has come to allow Americans—average Americans—to travel freely to Cuba. I urge my colleagues to support the legislation that Senator LEAHY and I have introduced today. We will be working to ensure that the full Senate has an opportunity to debate and vote on this matter when the Senate convenes next year. I hope our colleagues will join with us at that time in restoring American citizens' rights to travel wherever they choose, including to the Island of Cuba.●

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 banking, a rapidly-growing financial service in which banks provide one-on-one services tailored to the individual needs of wealthy individuals. The Subcommittee's investigation and hearings show that private bankers have operated in a culture which emphasizes 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 year-long investigation and testimony by distinguished financial experts, regulators, and banking industry personnel, revealed that private bankers 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 personnel to track the ownership and flow of funds and avert or apprehend laundering 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 funds derived from such activities do not constitute money laundering, 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 off-shore 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 foreign entity to identify 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 misrepresent the true ownership 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 anonymously. 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 prosecutions in the U.S., including corruption and the misappropriation of IMF funds. It would expand the jurisdiction of U.S. courts, by including transactions in which money is laundered through a foreign bank as a U.S. crime if the transaction has 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 investigation 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. To rectify this, the bill requires financial institutions to develop and apply due diligence standards for accounts for private banking customers to verify the customers' identity and source of wealth, both when opening such accounts and on an ongoing basis.

Finally, the bill would authorize funding for FinCEN to develop an automated ''alert database.'' FinCEN, an arm of the Department of the Treasury, tracks Currency Transaction Reports and Suspicious Activity Reports, important tools in fighting money laundering. However, FinCEN officials have told me that they lack a database which will automatically alert them to patterns of suspicious activity that 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 our 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. 1920

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) United States 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 populations.

(5) Private banking is a growing activity among financial institutions based in and operating in the United States.

(6) The high profitability, 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 that have weak financial regulatory and reporting regimes and no transparency facilitates global money laundering.

(b) PURPOSE.—The purpose of this Act is to eliminate the weaknesses in Federal law 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 foreign entities

''(a) DEFINITIONS.—Notwithstanding any other provision of this subchapter, in this section the following definitions shall apply:

''(1) ACCOUNT.—The term 'account'—

''(A) 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) CORRESPONDENT BANK.—The term 'correspondent bank' means a depository institution that accepts deposits from another financial institution and provides services on behalf of such other financial institution.

''(4) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 19(b)(1)(A) of the Federal Reserve Act.

''(5) FOREIGN BANKING INSTITUTION.—The term 'foreign banking institution' means a foreign 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 in the countries where they are organized or operating.

''(6) FOREIGN ENTITY.—The term 'foreign entity' means an entity that is not organized under the laws of the Federal Government of the United States, any State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

''(b) PROHIBITION ON OPENING OR MAINTAINING ACCOUNTS BELONGING TO OR FOR THE BENEFIT OF UNIDENTIFIED OWNERS.—A depository institution or a branch of a foreign bank (as defined in section 1 of the International Banking Act of 1978) may not open or maintain any account in the United States for a foreign entity or a representative of a foreign entity, unless—

''(1) for each such account, the institution completes and maintains in the United States a form or record identifying, by a verifiable name and account number, each person having a direct or beneficial ownership interest in the account; or

''(2) some or all of the shares of the foreign entity are publicly traded.

''(c) PROHIBITION ON OPENING OR MAINTAINING CORRESPONDENT ACCOUNTS OR CORRESPONDENT BANK RELATIONSHIP WITH CERTAIN FOREIGN BANKS.—A depository institution, or branch of a foreign bank, as defined in section 1 of the International Banking Act of 1978, may not open or maintain a correspondent account in the United States for or on behalf of a foreign banking institution, or establish or maintain a correspondent bank relationship with a foreign banking institution (other than in the case of an affiliate of a branch of a foreign bank), that—

''(1) is organized under the laws of a jurisdiction outside of the United States; and

''(2) is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in such jurisdiction.

''(d) 48-HOUR RULE.—Not later than 48 hours after receiving a request by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) for information related to anti-money laundering compliance by a financial institution or a customer of that institution, a financial institution shall provide to the requesting agency, or make available at a location specified by the representative of the agency, information and account documentation for any account opened, maintained, or managed in the United States by the financial institution.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for subchapter 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 foreign entities.''.

(c) 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 customer with the movement of funds 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 a concentration account commingles funds belonging to 1 or more customers, the identity of, 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 after section 10 the following:

''SEC. 5A. DUE DILIGENCE.

''(a) PRIVATE BANKING.—In fulfillment of its anti-money laundering obligations under section 5318(h) of title 31, United States Code, 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 (1) shall, at a minimum, ensure that the depository institution knows and verifies, through probative documentation, the identity and financial background of each private banking customer of the institution and obtains sufficient information about the source of funds of the customer to meet the anti-money laundering obligations of the institution.

''(c) COMPLIANCE REVIEW.—The appropriate Federal banking agencies shall review compliance with the requirements of this section as part of each examination of a depository institution under this Act.

''(d) REGULATIONS.—The Board of Governors of the Federal Reserve System shall, after consultation with the other appropriate Federal banking agencies, define the term 'private banking' by regulation for purposes of this section.''.

SEC. 6. SUPPLEMENTATION OF CRIMES CONSTITUTING MONEY LAUNDERING.

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) by striking clause (ii) and inserting the following:

''(ii) any conduct constituting a crime of violence;''; and

(2) by adding at the end the following:

''(iv) fraud, or any scheme to defraud, committed against a foreign government or foreign governmental entity under the laws of that government or entity;

''(v) bribery of a foreign public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a foreign public official under the laws of the country in which the subject conduct occurred or in which the public official holds office;

''(vi) smuggling or export control violations involving munitions listed in the United States Munitions List or technologies with military applications, as defined in the Commerce Control List of the Export Administration Regulations;

''(vii) an offense with respect to which the United States would be obligated by a multilateral treaty either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States; or

''(viii) the misuse of funds of, or provided by, the International Monetary Fund in contravention of the Articles of Agreement of the Fund or the misuse of funds of, or provided by, any other international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) in contravention of any international treaty or other international agreement to which the United States is a party, including any articles of agreement of the members of such international financial institution;''.

SEC. 7. PROHIBITION ON FALSE STATEMENTS TO FINANCIAL INSTITUTIONS CONCERNING THE IDENTITY OF A CUSTOMER.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code (relating to fraud and false statements), is amended by inserting after section 1007 the following:

''§ 1008. False statements concerning the identity of customers of financial institutions

''(a) IN GENERAL.—Whoever knowingly in any manner—

''(1) falsifies, conceals, or covers up, or attempts to falsify, conceal, or cover up, the identity of any person in connection with any transaction with a financial institution;

''(2) makes, or attempts to make, any materially false, fraudulent, or fictitious statement or representation of the identity of any person in connection with a transaction with a financial institution;

''(3) makes or uses, or attempts to make or use, 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;

shall be fined under this title, imprisoned not more than 5 years, or both.

''(b) DEFINITIONS.—In this section:

''(1) FINANCIAL INSTITUTION.—In addition to the meaning given to the term 'financial institution' by section 20, the term 'financial institution' also has the meaning given to such term in section 5312(a)(2) of title 31.

''(2) IDENTIFICATION DOCUMENT AND MEANS OF IDENTIFICATION.—The terms 'identification document' and 'means of identification' have the meanings given to such terms in section 1028(d).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking ''1014 (relating to fraudulent loan'' and inserting ''section 1008 (relating to false statements concerning the identity of customers of financial institutions), section 1014 (relating to fraudulent loan''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1007 the following:

''1008. False statements concerning the identity of customers of financial institutions.''.

SEC. 8. APPROPRIATION FOR FINCEN TO IMPLEMENT SAR/CTR 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 will alert law enforcement officials if Currency Transaction Reports or Suspicious Activity Reports disclose patterns that may indicate illegal activity, including any instance in which multiple Currency Transaction Reports or Suspicious Activity Reports name the same individual within a prescribed period of time.

SEC. 9. LONG-ARM JURISDICTION OVER FOREIGN MONEY LAUNDERERS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting ''(1)'' after ''(b)'';

(3) by inserting '', or section 1957'' after ''or (a)(3)''; and

(4) by adding at the end the following:

''(2) For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, that commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States, if service of process upon such foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found.

''(3) The court may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.''.

SEC. 10. LAUNDERING MONEY THROUGH A FOREIGN BANK.

Section 1956(c)(6) of title 18, United States Code, is amended to read as follows:

''(6) the term 'financial institution' includes—

''(A) any financial institution described in section 5312(a)(2) of title 31, or the regulations promulgated thereunder; and

''(B) any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).''.

SEC. 11. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

SUMMARY OF THE MONEY LAUNDERING ABATEMENT ACT OF 1999

A United States depository institution or a United States branch of a foreign institution could not open or maintain an account in the United States for a foreign entity unless the owner of the account was identified on a form or record maintained in the United States.

A United States depository institution or branch of a foreign institution in the United States could not maintain a correspondent account for a foreign institution unless the foreign institution was subject to comprehensive supervision or regulation.

Within 48 hours of receiving a request from a federal banking agency, a financial institution would be required to provide account information and documentation to the requesting agency.

The Secretary of the Treasury would be required to issue regulations to ensure that customer funds flowing through a concentration account (which comingles funds of an institution's customers) were earmarked to each customer.

The list of crimes that are predicates to money laundering would be broadened to include, among other things, corruption or fraud by or against a foreign government under that government's laws or the laws of the country in which the conduct occurred, and misappropriation of funds provided by the IMF or similar organizations.

Institutions that engage in private banking would be required to implement due diligence procedures encompassing verification of private banking customers' identities and source of funds.

It would be a federal crime to knowingly falsify or conceal the identity of a financial institution customer.

An appropriation would be authorized for FinCEN, which tracks reports filed by financial institutions under the Bank Secrecy Act, to establish an automated system of alerting authorities when multiple reports are filed regarding the same customer.

United States courts would be given ''long-arm'' jurisdiction over foreign persons and institutions that commit money laundering offenses that occur in whole or part in the United States.

The definition of money laundering in current statutes would be expanded to include laundering money through foreign banks.

ADDITIONAL COSPONSORS

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. CRAPO, 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. 329

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. BREAUX), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from New York (Mr. SCHUMER), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. GRASSLEY), the Senator from California (Mrs. FEINSTEIN), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Missouri (Mr. ASHCROFT), the Senator from Indiana (Mr. BAYH), the Senator from Utah (Mr. BENNETT), the Senator from Missouri (Mr. BOND), the Senator from Nevada (Mr. BRYAN), the Senator from Maine (Ms. COLLINS), the Senator from Georgia (Mr. COVERDELL), the Senator from Idaho (Mr. CRAIG), the Senator from South Dakota (Mr. DASCHLE), the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Washington (Mr. GORTON), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. KOHL), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Mississippi (Mr. LOTT), the Senator from Florida (Mr. MACK), the Senator from Maryland (Ms. MIKULSKI), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Rhode Island (Mr. REED), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SHELBY), the Senator from New Hampshire (Mr. SMITH), the Senator from Oregon (Mr. SMITH), the Senator from Wyoming (Mr. THOMAS), the Senator from South Carolina (Mr. THURMOND), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Ohio (Mr. VOINOVICH), the Senator from Virginia (Mr. WARNER), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 329, a bill to amend title 38, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes.

S. 470

At the request of Mr. L. CHAFEE, his name was added as a cosponsor of S. 470, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt private activity bonds to be issued for highway infrastructure construction.

S. 664

At the request of Mr. L. CHAFEE, his name, and the name of the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 761

At the request of Mr. ABRAHAM, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 761, a bill to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and for other purposes.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 805, a bill to amend title V of the Social Security Act to provide for the establishment and operation of asthma treatment services for children, and for other purposes.

S. 901

At the request of Mr. BINGAMAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor 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 cosponsor of S. 1120, a bill to ensure that children enrolled in medicaid 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 cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1332

At the request of Mr. BAYH, the names of the Senator from New York (Mr. MOYNIHAN), the Senator from Minnesota (Mr. WELLSTONE), the Senator from Louisiana (Mr. BREAUX), the Senator from Mississippi (Mr. COCHRAN), the Senator from Delaware (Mr. ROTH), the Senator from Hawaii (Mr. AKAKA), the Senator from Idaho (Mr. CRAPO), 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. BRYAN), the Senator from West Virginia (Mr. BYRD), and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1332, 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. JEFFORDS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1369, a bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes.

S. 1378

At the request of Mr. VOINOVICH, the names of the Senator from Mississippi (Mr. LOTT), 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. 1443

At the request of Mr. HARKIN, the names of the Senator from South Dakota (Mr. DASCHLE), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1443, 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. 1511

At the request of Mr. HARKIN, the name of the Senator from Minnesota

(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. 1883

At the request of Mr. BINGAMAN, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1883, 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. JEFFORDS) 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. BREAUX, 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.''

At the request of Mr. CHAFEE, his name was added as a cosponsor of Senate Resolution 216, supra.

SENATE RESOLUTION 217

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 220

At the request of Mr. INHOFE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of Senate Resolution 220, a resolution expressing the sense of the Senate regarding the February 2000 deployment of the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit to an area of potential hostilities and the essential requirements that the battle group and expeditionary unit have received the essential training needed to certify the warfighting proficiency of the forces comprising the battle group and expeditionary unit.

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 New Mexico (Mr. DOMENICI) were added as cosponsors 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. 2515

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. 2516

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. 2650

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. 2771

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 cosponsors 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, WHERE POSSIBLE, LEAD 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, deformed backs and shoulders from carrying overweight loads, and 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 stigma should they return 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 and 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, torture, 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 29, 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 25, and that troops in 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 on August 25, 1999, the United Nations Security Council unanimously passed Resolution 1261 (1999) condemning the use of children in armed conflicts;

Whereas in addressing the Security Council, the Special Representative of the Secretary General for Children and Armed Conflict, Olara Otunnu, urged the adoption of a global three-pronged 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 age of 18 despite 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 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 expediently 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.

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 serving as soldiers 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 around the world: 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. These children have no voice. Some children are kidnaped and forced to become combatants. In the conflict in Sierra Leone, rebel armies willfully conscripted children into their ranks after forcing them to kill their family members and neighbors.

Once conscripted, many children are subject to brutal induction ceremonies. The impact of the regular use of physical and emotional abuse involving degradation and humiliation of younger recruits to ''indoctrinate'' discipline, and to induce fear of superiors usually results in low self-esteem, guilt feelings and violent solutions to problems.

In addition, children are treated like their adult counterparts. This can have severe physical effects. Poor and inadequate food and medical care have more serious implications for children, whose bodies are still growing and may be weakened by the exertions of military life. Children who cannot ''keep up'' are routinely killed by their leaders so that they cannot reveal any secrets.

Child soldiers are sometimes drugged so that they will fight even more fiercely. They may be used as human shields, to protect the more valuable, trained adult soldiers.

Some children may appear to become combatants of their own accord. These are children—children without the capacity to judge what is in their own best interest. Children who are subject to subtle manipulations by family and community members may succumb to pressures that lead them to participate in hostilities.

Some children become so enraged by the violence against their families and communities they become combatants to seek revenge. These ''volunteers'' are children who have witnessed extremes of physical violence, including death squad killings, disappearances, torture, destruction of home or property and massacres. Young children seldom appreciate the dangers which they face. Alone, orphaned, frightened, bored, and frustrated, they will often finally choose to fight.

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 outlawing the use of children under 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 working in Geneva to establish an Optional Protocol to the Convention on the Rights of the Child that would raise the minimum age for recruitment and participation in conflict in 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 these 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 perpetrate equal atrocities upon others.

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 future generations of children through passage of this concurrent resolution.

The resolution simply provides that (1) the 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 expediently 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.

SENATE CONCURRENT RESOLUTION 73—EXPRESSING THE SENSE OF THE CONGRESS REGARDING FREEDOM DAY

Mr. LIEBERMAN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 73

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 is essence, was a struggle for human freedom;

Whereas the end of the Cold War was brought about in large measure 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 formal educational 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 Berln 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 already 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 not forget as we 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.

This 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 recent column 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.

Long yearned for, the end of 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 dis-memberment. On Aug. 19, 1991, Boris Yeltsin stood on a tank to resist a hard-line coup. The hammer-and-sickle came down; the Russian tricolor went 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

commemorate the end of the Cold War. I asked readers to participate in a contest to: 1. Name it; 2. pick a date; and 3. propose a method of celebration.

Several hundred submissions came in. Some of the most imaginative entries for a name were: ''Defrost Day,'' ''Thaw Day,'' ''Ronald Reagan Day,'' ''Gorbachev Day,'' ''Borscht Day,'' ''Peace Through Strength Day,'' ''E Day'' (which would stand for ''Evil Empire Ends Day''), ''E2D2'' (''Evil Empire Death Day''), ''Jericho Day,'' ''Pax Americana Day'' and ''Kerensky Future Freedom Day'' (recalling that Mr. Yeltsin was not the first pro-democratic leader of Russia).

Scores of respondents offered ''Liberty Day,'' ''Democracy Day,'' and, mostly, ''Freedom Day.'' In June of 1992, I publicly proclaimed ''Freedom Day'' the winner.

One suggestion for the date of the new holiday was June 5, for Adam Smith's birthday. But the most votes went for Nov. 9, the day the wall fell. So today I proclaim that date Freedom Day.

There were ideas about how to celebrate and commemorate Freedom Day: Build a sibling sculpture to the statue of Liberty; eat potatoes, the universal food; build a tunnel to Russia across the Bering Strait; thank God for peace; welcome immigrants; meditate; issue a U.N. stamp; build ice sculptures; send money to feed Russians; and do something you can't do in an unfree country—make a public speech, see a dirty movie, celebrate 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 should endorse the holiday. Legislators ought to push for it. Anyone who worked in a defense industry, or paid federal taxes from 1945 to 1989, ought to support it. President Clinton ought to go to the Reagan Library to endorse it.

I met with Mark Burman of the Reagan Presidential Foundation. He says they are on board for a campaign. The other great presidential libraries—Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford and Carter—should join in.

So should anyone concerned with the teaching of American history. The holiday will remind American children that their recent ancestors preserved freedom. The Cold War generation may not be ''the greatest'' but they did their job—victory without a major hot war.

Americans can only create an American holiday. But we ought to invite all other countries to join in, Russia first. The citizens of Russia won the Cold War as surely as we did. If I were a Chinese dissident I'd promote 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 persons, as soon as I figure out who they are.

SENATE RESOLUTION 231—REFERRING S. 1456 ENTITLED ''A BILL FOR THE RELIEF OF ROCCO A. TRECOSTA OF FORT LAUDERDALE, FLORIDA'' TO THE CHIEF JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A REPORT THEREON

Mr. GRAHAM submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 231

Resolved,

SECTION 1. REFERRAL.

S. 1456 entitled ''A bill for the relief of Rocco A. Trecosta of Fort Lauderdale, Florida'' 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 shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(2) report back to the Senate, at the earliest practicable date, providing—

(A) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character 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 COMMITTEES FOR THE 106TH CONGRESS

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S.RES. 232

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.

AMENDMENTS SUBMITTED

PRIVACY PROTECTION STUDY COMMISSION ACT OF 1999

KOHL (AND TORRICELLI) AMENDMENT NO. 2777

(Ordered referred to the Committee on the Judiciary)

Mr. KOHL (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by them to the bill (S. 1901) 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; as follows:

Strike all after the enacting clause and insert the following:

SECTION 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 increasingly important in recent years, and should remain so in a free and democratic society;

(3) the use of electronic data collection, storage, communications, transfer, and usage has increased exponentially, thus heightening the potential impact upon individual privacy;

(4) national surveys indicate that the growth and expansion of technology has resulted in concern regarding electronic data privacy for more than 80 percent of United States citizens;

(5) currently, there is no uniform Government 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 efforts to self-regulate privacy protection, especially 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 existing 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 Government agencies, and foreign governments, and if necessary, legislative proposals;

(4) evaluate new technology (i.e. biometrics) to enhance electronic data privacy; and

(5) study the extent, need, and feasibility of individual control over personal information.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Privacy Protection Study Commission (hereafter in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) 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.

(2) QUALIFICATIONS.—Members of the Commission shall be chosen based on their knowledge and expertise in law, civil rights and liberties, privacy matters, government, business, telecommunications, media, or information technology.

(3) 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 Congress, Government agencies, other persons, and the public.

(4) TERM OF APPOINTMENT; VACANCIES.—

(A) APPOINTMENT.—

(i) IN GENERAL.—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.

(B) VACANCY.—Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(5) VOTING.—Each member of the Commission shall have equal responsibility and authority in all decisions and actions of the Commission, and shall have 1 vote. Action 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 implications to individual privacy of electronic collection, storage, transfer, and usage of personal information by Federal, State, and local governments and the private sector;

(2) review enacted law and proposed Federal and State legislation pertinent to privacy protection and electronic data protection, including sections 552 and 552a of title 5, United States Code (commonly referred to as the Freedom of Information Act and the Privacy Act, respectively), the 1996 Electronic Freedom of Information Act Amendments of 1996 (5 U.S.C. 552 note)), Electronic Communications Privacy Act of 1986 (18 U.S.C. 2510 note), Fair Credit Reporting Act (15 U.S.C. 1601 et seq.), and the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. 521 et seq.), and if necessary, propose any legislation to—

(A) ensure appropriate privacy protection for both Government and private sector uses of personal information;

(B) provide the proper balance between privacy protection and legitimate, effective uses of information and the needs of law enforcement agencies; and

(C) eliminate and resolve any conflict between laws; and

(3) evaluate the effectiveness and success of self-regulation privacy initiatives undertaken by the private sector.

(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;

(3) evaluate 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) REPORTS; RECOMMENDATIONS.—

(1) PROGRESS REPORTS.—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.

(B) CONTENTS.—The report shall contain a detailed statement of the Commission's findings and conclusions, together with any recommendations for such legislation and administrative actions as the Commission considers appropriate.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings and sit and act at such times and places, administer oaths, and require by subpoena or otherwise, the attendance and testimony of witnesses and 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)—

(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) shall bear the signature of the Chairman of the Commission or any designated member; and

(C) may be served by any person or class of persons designated by the Chairman for that purpose.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In case of contumacy 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 or to produce documentary or other evidence.

(B) PUNISHMENT.—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 is authorized and directed, to the extent authorized by law, to furnish the requested information to the Commission, upon request made 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 upon completion of 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 5315 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 allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code.

(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 may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5326 of such title.

(3) SPECIAL EXPERTS AND CONSULTANTS.—The Chairman of the Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

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 and Congress.

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) AVAILABILITY.—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 an amendment to amendment No. 2516 proposed by Mr. KOHL to the bill (S. 625) to amend title 11, United States Code, and 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 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.

AUTHORITY FOR COMMITTEES TO MEET

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, 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. George has been a war veteran, tennis instructor, lawyer, and vice president of Broadcast Music, Incorporated (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 enciphered cables intercepted from Japan. This might explain 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 most fulfillment. 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 particularly apt Irish blessing:

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 follows.

[From the National Review, Nov. 8, 1999]

TEST-BAN BAN

(By Richard Lowry)

''If we had a hearing and had a vote on the CTBT, we would win overwhelmingly.''
—Sen. Joe Biden, July 29, 1998

Jesse Helms mounted his motorized cart and left the Republican cloakroom, just off the Senate floor. Arizona senator Jon Kyl was right behind him. Georgia's Paul Coverdell got word in his office 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, and it would 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 case on the merits. Defeating the treaty would, among other things, fit into a two-pronged national-security strategy featuring both missile defense and nuclear deterrence; deterrence is impossible without a safe, reliable American arsenal of the sort that the treaty would endanger. Shrewd GOP tactics and a series of Democratic miscalculations had brought the treaty to the brink, and now the senators were back where they had started—around that conference table—pondering whether to push it over the edge.

The first meeting in Lott's office had been in late April, when those same four began a quiet, well-organized effort to defeat the treaty. Kyl was the point man. A bright, serious-minded conservative and an authority on arms control, he had hosted meetings of anti-treaty staff as early as February. Soon after, he enlisted the help of Coverdell, always an important behind-the-scenes Senate player. Treaty opponents realized from the beginning that they would be wise to learn from their defeat on the Chemical Weapons Convention two years earlier, when Lott undercut them at the last minute. The first lesson? Get Lott on board early.

At the April meeting, Lott indicated his opposition to the treaty but said that no decisions could be made until the group determined how many Republicans were with them. So, in early May, treaty opponents began the first in a series of careful ''whip checks'' of how GOP Senators intended to vote. They gave wide berth to Senators who were likely to support the treaty or might spread word that something was afoot. ''There were 15 to 20 members we didn't even ask,'' says a Senate aide. The first count showed 24 votes against the treaty—10 short of the number needed to stop it—with another 11 ''leaning against.''

Around this time, an internal debate among treaty opponents was close to resolution, at least in the minds of Kyl and Coverdell. The question had been whether it was better to ''go fast''—gather the votes to defeat the treaty, then vote on it right away—or ''go slow,'' in the hope of bottling it up forever. The ''go fast'' advocates figured treaty opponents would only lose strength as the November 2000 elections neared. With the approach of Election Day, Senators would want to avoid any controversial vote, while the White House would benefit from additional time to hammer its opponents. The chemical-weapons fight had demonstrated the awesome communications power of the administration. Why wait for it to shift into gear?

In early August, Lott was shown a binder full of clips—op-eds and letters—that supported the treaty, which seemed to indicate that the administration's push for it was underway. For a long time, treaty opponents had feared the administration would use a September conference commemorating the third anniversary of the treaty's signing as a deadline for Senate action. A July 20 letter from all the Senate Democrats—demanding hearings and a vote by October—seemed to confirm this plan. A fall treaty fight would coincide nicely with the period in which Republicans would be scrambling to pass appropriations bills. Democrats would have leverage to threaten to bollix up the spending process—creating the conditions for another ''government shutdown''—unless Republicans released the treaty.

Lott settled on a three-part interim strategy: (1) Helms—with 25 years' experience opposing ill-conceived arms-control treaties—would continue to hold up the treaty in his Foreign Relations Committee; (2) meanwhile, influential former national-security officials would continue to be lined up in opposition to it; and (3) 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 34 votes in opposition—just enough. He could also deliver the energetic help of former secretary of defense (and secretary of energy) James Schlesinger.

Before long, the education effort by treaty opponents was in full swing. Kyl's staff prepared briefing books to distribute to other Senate staffers. 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 was key to us,'' says the Senate aide. The effort began to show in the steadily rising vote count: Sept. 14–34 opposed; Sept. 17–35; Sept. 22–38; Sept. 30—an amazing 42.

At the same time, Democrats heedlessly stepped up their agitation for action on the treaty. North Dakota Senator Byron Dorgan

was threatening to tie up Senate business, getting under Lott's skin. ''They were a huge influence on the decision to say, 'Okay, let's just hold this vote,'" says Coverdell about the Democrats. On Sept. 28, Biden showed Helms a resolution that he planned to offer, proposing hearings on the treaty this year and a vote by March 31, 2000. Biden's ploy seemed to indicate that the Democrats now planned to raise the temperature on the treaty in the spring, when it would get enmeshed in the presidential campaign and discomfit George W. Bush. As a result, Lott decided to move. He quietly reassured Biden that his resolution would be unnecessary.

On Sept. 30, Lott offered a ''unanimous consent'' agreement—all Senators have to sign on to such an agreement for it to go into effect—to bring up the treaty for an immediate vote. Daschle objected, charging that, among other things, there wasn't enough time for debate. Lott gave the Democrats the additional time they wanted, and 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 a mistake of major proportions.

Why did the Democrats do it? In part, they were trapped by their own rhetoric. Gleeful GOP staffers had a sheaf of statements from Democrats demanding a treaty vote this year. How could they back out now? They were also probably unaware of the direness of their situation. ''It was plain arrogance,'' 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 avert a 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 them 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. On Oct. 12, Daschle sent Lott a letter proposing to shelve the treaty, barring ''unforeseen changes.'' Lott promised to run it by his members. Hence the call that brought Helms, Kyl, and Coverdell dashing to Lott's office. 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 unbidden.

Kyl, Helms, and Coverdell huddled with Lott over Daschle's proposal. What did ''unforeseen changes'' mean? Coverdell thought it was a ''glaring escape clause.'' The consensus of the group was that it was unacceptable. ''We couldn't have had a more calm, considerate discussion,'' says Kyl. ''Lott didn't need to be persuaded or harangued in the least.'' There was a brief discussion of going back to the Democrats with a draft of a foolproof deal. But it dawned on everyone that any deal would be impossible. The Democrats weren't serious, and some Republicans were unwilling to go along no matter what. Inhofe, arriving at Lott's office, emphasized just that. The only way out, as one Senate aide puts it, would have been ''an internal Republican bloodbath.''

So, the next day, all systems were go. Lott firmly rejected a last-minute floor attempt by Democratic lion Robert Byrd to place obstacles in the way of a vote. Byrd threw a fit—to no avail. It was too late. Republican Senator John Warner was running around the floor, still gathering signatures on a letter asking that the vote be put off. Again, too late. President Clinton called Lott, asking if there was anything he could do. Replied Lott: Too late. When the floor debate was concluded, 51 Republican Senators voted down the Comprehensive Test Ban Treaty in the face of international pressure, the opposition of the White House, and hostile media.

Surprising? Well, yes. ''I thought we had 50,'' says Jon Kyl.●

RECOGNITION OF JULIE ROLING

● Mr. JOHNSON. Mr. President, I rise today to express my appreciation for the hard work of Julie Roling, a Brookings Institution Fellow who has worked as part of my staff for the past six months. Julie has been a tremendous asset to my legislative staff, and I am fortunate to have had her assistance. When she returns to the National Security Agency in December, I know she will be missed by me and my staff.

Very often, Brookings Fellows have reputations that precede them in Capitol Hill offices. Known as some of the best and brightest government employees, they are considered secret weapons to the Members they assist. Julie has been no exception. She came to my 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 a broad array of new issue areas and contributed a great deal to my legislative staff.

Throughout the past six months, Julie has worked on a number of projects dealing with the environment, natural resources, agriculture and trade. Julie led research efforts regarding a controversial wetlands policy during her time in my office. The unfortunate circumstances surrounding this issue pitted the interests of agricultural producers against environmental groups. It was imperative that my staff and I have access to the most recent information, in order to effectively address the concerns of my constituents. Julie's research provided my office with up-to-date and unbiased information that enabled me to communicate clearly with both farmers and environmentalists during this time. Julie 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 collected and synthesized information that enabled me and my staff to decide which crop insurance reform bills most effectively addressed the concerns of South Dakota farmers.

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 deregulation proposals can appreciate the hard work and attention to detail 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 a job well done. I wish her the very best in her future endeavors.●

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 at age 24 and served valiantly during the Civil War. On July 30, 1896, Private Alber was issued the Medal of Honor for his undaunted bravery in the wilderness and his heroic actions at Spotsylvania. On May 12, 1864, Private Alber rescued Lieutenant Charles Todd of the 17th Michigan Infantry who was in the hands of a party of rebels. Private Alber 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.●

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 forecaster or as a manager. He has now retired 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 WBAS Midway Airport while attending St. Louis University. He earned his Bachelor of Science in Meteorology in 1963 and added a Masters 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 the new Fairbanks 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 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 123 21st Century Weather 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 his retirement from the National Weather Service.●

DAVID GRISWOLD—LOYAL STAFFER

● 1Ms. 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 that Senator Chafee touched—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 for the people of 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 it be printed in the RECORD.

The article follows:

[From the Providence Journal-Bulletin, Oct. 30, 1999]

AIDE BECAME A REFLECTION OF JOHN CHAFEE

IN A 23-YEAR JOURNEY, DAVID J. GRISWOLD ROSE FROM BEING THE SENATOR'S DRIVER TO SERVING AS HIS CHIEF OF STAFF

(By Maria Miro 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 his go-fer and driver, then rose through the ranks to become his chief of staff, a position he has held for 10 years.

Now he sat in the senator's sunny office on Dorrance Street, having just come from a service, which he wrote himself, at the State House rotunda. His mind, he said, was ''numb.'' At one point, he interrupted himself in mid-sentence ''It's so hurtful to be referring to him in the past tense, I cannot tell you.''

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. Julius Michaelson. President Ronald Reagan had tumbled in the polls and people were anxious about the economy. Republicans feared people might vote Democratic simply to signal their displeasure with the president.

Griswold, working as a scheduler then in Chafee's Providence office, had an idea: Why not campaign in a Cranston bowling alley on a Saturday night? The place was sure to be full of good-natured Rhode Islanders.

Chafee had never campaigned in a bowling alley, Griswold is sure, ''he said, 'All right, we'll try this.'" So they loaded up the car with brochures and headed for the lanes on Elmwood Avenue.

''And it was awful,'' says Griswold. The place was full of kids and teenagers, the adult leagues having bowled during the week. ''They didn't know who he was. They weren't rude, but they were just not tuned in. Many of them were not even voting age.''

Nonetheless, ''we schlepped along dowwwn one side and baaaaack up the other side,'' with Chafee shaking every hand. ''He must've been just ready to burst and I was feeling like I wanted to die, 'cause I knew immediately, 'Oh boy, this was not a good idea.'"

Griswold drove the senator home to Warwick, and that's when ''he let me have it.''

''He said, 'Whose idea was this? That was the biggest waste of time I ever had. Don't you know how tired I am? Don't you know how stressful this is? What was the point of wasting time in there with that crowd? They weren't very friendly

''And I said, 'Senator, it was my idea. I'm sorry.' And he was very quiet. The whole way home, neither of us said anything, and I dropped him off.''

The next day, Griswold returned from some errands to find a phone message: ''Senator Chafee called. He called to say that he was sorry that he was cross with you last night. He appreciates everything you do, and he's very proud of you.''

''I saved that note,'' says Griswold. ''Here it was Sunday before the election. We were all in a 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 fell 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'' John 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 and came 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 himself. The speeches were great, he said, and afterward, Chafee shook Griswold's hand. ''It was thrilling.''

Later, as Griswold headed to the Outlet building to catch a bus, a limo came 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 Turks Head Building. ''I was one of a hundred people, but he made me feel as if he and I connected.''

The day after graduating from PC, Griswold joined Senator Chafee's staff. He has never looked back.

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 did.

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.'' Realizing that Griswold felt awful about it, he'd say,'' '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 valued 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, 'Senator, I don't know,' rather than inventing 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 director, then his chief of staff.

One former colleague, Christine C. Ferguson, now head of the state Department of Human Services, worked closely with Griswold 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 John Chafee.''

As Griswold recalls those days, the work of advising Chafee could be ''painful.''

He and Ferguson were always having to remind the senator of the political ramifications of his upcoming votes. ''We would say things like, 'What good is it to know you're gonna do the right thing if in the end, you lose an election and you can't come back here and try to keep on doing what you're doing?'

''And he struggled. I remember nights that he would pound his fist on the desk and say to us, 'Thank you. I've heard enough.'''

Griswold was seldom sure how Chafee would end up voting when he went to the floor ''He had his own compass.''

Griswold sometimes warns young applicants for staff jobs 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 headed.''

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.'' Frankly, he says, he resented staffers who did otherwise, because it presumed an equality that could never exist. (Chafee, for his part, never complained about it, Griswold says.)

''This is the biggest person that has served this state in this century,'' he said, ''in terms of length of tenure, in terms of types of jobs he's done, in terms of the barriers he's broken politically and in terms of just his statesmanship.''

When it's pointed out that Griswold has given his entire adult life to serving Chafee, he says that in fact, it's Chafee who has given him something. ''He's given me opportunities at every turn which I could not have expected I was ready for.''

In recent years, Chafee has reminded Griswold to ''smell the roses'' and indeed, Griswold has eased up a bit on work. ''Ironically,'' he says, ''it is he that I wanted to be smelling roses.''

Griswold had known that the senator was ailing, and that the job was requiring more of a struggle. But he was active to the end.

''He had made a wonderful speech, just three or four days before his death, at the National Cathedral to a hugh gathering of the National Trust for Historic Preservation.''

Chafee had worked hard on the speech, and it won him a standing ovation from the crowd of 2,000 people. ''He felt pumped up and he knew he'd done a good job.''

Then, last weekend, Chafee called Griswold to say he wasn't feeling well, and needed to cancel two planned events. Griswold thought he heard something different in his voice.

''I think he was always prepared for everything,'' he says even death. ''He was a person of faith and a person with a compass that guided him and he was ready even when he was unprepared, in the sense of having no script in hand just ready to do what he was called to do, and do it with grace.''

On Sunday night, at about 8, Griswold got the call from Chafee's daughter, Georgia Nassikas.

''When I heard her voice, my heart just fell to the floor. I knew this had to be something bad.'' But the way she said the last three words ''my father died'' with such composure and strength, helped Griswold.

He realized ''this was where we were now,'' and felt prepared.

Nonetheless, as he paced around the room with the phone in his hand, he found himself double-checking his facts: '''Did you tell me now that your dad has died?''' he asked. ''And she laughed, and said yes.''

Such, he says, are the habits born of working for John Chafee.

So many logistical details are involved in helping arrange today's massive funeral that Griswold has had no time to grieve.

It's as if the funeral was one more big project, which the staff is handling as it has handled so many others through the years. ''At any given point in the process, we've all thought he might walk in and say, 'Well, how's this coming along, folks?'''

Now, every morning, when Griswold wakes up, it takes him a moment to remember that ''the world is different now, completely different. . . . I never thought he'd leave. I never believed that John Chafee would leave. And it's scary to me, not to have him.''

In the smallest, most everyday actions just making a phone call Griswold remembers him. It's always, Hello, this is David Griswold with Senator Chafee.

''I had five names. David Griswold With Senator Chafee. I'm afraid that I will say that for a long time.''●

DR. JOHN O. LUSINS OF ONEONTA, NY

● Mr. MOYNIHAN. Mr. President, a milestone will occur on Wednesday, December 15th, while the Senate is in recess, which I do not want to go unacknowledged. 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 oenophile, and caring father of five children. Suffice to say, Dr. Lusins has accomplished the American dream. I wish him hearty congratulations on this achievement.

Named after his physician father, John O. Lusins was born December 15th, 1939 in the Baltic country of Latvia. At age twelve, John and his mother, Elza, immigrated to the United States after being displaced for several years as a result of World War II. Seeking a better life after witnessing the atrocities in Europe, the two lived briefly in Greensboro, North Carolina before settling in Yonkers, New York.

John entered the Andrus Home for Children at age fifteen, and proved himself to be an anomaly among his peers by graduating from Charles E. GORTON High School in 1958. With continued 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, John not only excelled academically but proved himself as an athlete, leader, and a patriot. Throughout his collegiate career, John powered Columbia's varsity crew down the Harlem River and was named captain for his senior year in 1962. Following his junior year, however, Lusins was called to military duty in Germany as the Soviets erected the Berlin Wall. After fulfilling his military obligations, he returned to New York and subsequently finished college.

Before leaving for Berlin, John met a dashing 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 Noelle in 1966. Three boys followed: Carl in 1968, John 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, John 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 capabilities, Dr. Lusins has also established himself as a prominent American asset to the world of fine wine. Equipped with erudition and a discerning palate, this afficionado is not only a member of the prestigious New York Commandeire de Bordeaux but has proficiently ascended the ranks of the Confrérie des Chevaliers du Tastevin to become their distinguished Délégué Général of the Northeast. 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 Framer 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 splendid 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 opportunity 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 necessary to ensure 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, Latin American, and European 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 benefitted the American people.

It is important that the United States remain a leader in promoting policies of open markets worldwide. While our trade deficit has stabilized, we should remove remaining foreign barriers to American goods to reduce this deficit. American farmers, manufacturers and workers are hurt, when foreign countries use high tariffs, quotas, and questionable legal and safety procedures to lock American goods out of their markets. The President should make it a top priority to remove these barriers, and the Congress must give him the authority to achieve this objective.

The World Trade Organization (WTO) can play an important role in pursuing American trade objectives. All members of the WTO have to make commitments to reduce barriers to goods and services, and protect intellectual property rights. The WTO has an established procedure to ensure that countries meet their obligations. The United States should ensure that our trading partners meet their commitments. When our trading partners do not meet their obligations, such as the European Union has done concerning American agricultural goods, then we should use the WTO to apply as much pressure as possible to bring these countries into compliance. The upcoming Seattle negotiations offer us a great opportunity to use the WTO to reduce more foreign barriers to American goods, agricultural products, and services. We should also ensure the growth of our high technology exports by making permanent the international moratorium on customs duties relating to electronic commerce.

It is also important that we realize that international trade meets many of our national security interests. As countries trade with the United States and each other, they learn the benefits of peace and stability to economic growth. These countries see the benefits of pursuing policies that support stability, which is a major American national security objective.

Last week, the Senate sent a strong message that the United States is committed to the principles of free trade by passing major trade legislation. However, the President and Congress must work together to pass another major piece of trade legislation to ensure American prosperity in the 21st Century. It is imperative that the President make a serious effort to work with the Congress 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 rewritings 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 soon 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 in 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. JUNGEMANN

● Mr. JOHNSON. Mr. President, I rise today to recognize and pay tribute to David A. Jungemann, 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 earned retirement 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 Ellsworth AFB, South Dakota. 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, he served in support of the ARC Light Missions 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 City Councilman for the City of Box Elder, South Dakota, and currently serves as Trustee for the Zion Lutheran Church in Rapid City, South Dakota.

What is truly remarkable about Dave Jungemann 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 becoming involved 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 state legislatures.

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, DC, was conceived. In 1987, 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, and with less than $30,000 in the bank, the MRF hired its first employee and opened its Washington, D.C. headquarters on November 8, 1988.

Since its inception the MRF has had two primary goals. One has been its educational program, which sponsors national and regional conferences every year, with the purpose of training and educating leaders of state motorcyclist associations. The MRF's second, and primary program, is its government relations activity. 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 of the MRF and its 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.RI.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.

Other nominees for the 1999 Pinnacle Award include: Bethlehem Boar's Head Christmas Festival, Howard and Bonnie Ebenhoeh, Cindy Hartung, Terry Jankowski, ''Dixie'' Dave Minar, St. Charles Haunted House Association, and Tom Trombley.

I join the Saginaw County Convention and Visitors Bureau as they honor and salute the above individuals and organizations with the 1999 Pinnacle Award. Through their hard work and diligent efforts, the economy and quality of life in Saginaw County is greatly enhanced.●

BOISE MODEL PROGRAM NAMED 1999 PRESIDENT'S SERVICE AWARD HONOREE

● Mr. CRAIG. Mr. President, every year the President's Service Award honors volunteers for their efforts 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. This unparalleled distinction is 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 volunteers act 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, job shadowing and computer lab sessions, local science center trips, and university campus talks and tours. The college campus trips 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 and state. 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 1982 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 judged 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.●

UNITED 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 industrywide realization that their review process may be saving them less than they thought.

According to United Healthcare, 99 percent of their claims are approved despite an exhaustive review process. While this raises the question of exactly why the federal government needs to disrupt the entire health system by getting involved with one percent of health care claims, it also demonstrates our current private-sector health care providers must respond to consumer concerns or lose their customers to health providers that do.

Of course, United Healthcare will still have some review process and require physicians to notify them when a patient needs an expensive procedure or requires hospitalization. This is clear in all of our interests to ensure the appropriate treatments are considered. We should trust our physicians, but with the rapid advancements made in health care every day it is reasonable for us to have a team of experts review all the latest treatments, devices and pharmaceuticals. Clearly, this is an area where health plans are, and should be assisting physicians and ensuring quality health services are offered appropriately in their facilities.

By changing their review process, United Healthcare will reduce its medical monitoring staff by 20 percent and re-focus 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 distort market forces 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 voted for—it is still needed because it addresses other important issues. What this change of practice announced by United Health does signal is the potential for us to reach a reasonable conclusion to negotiations underway between the House-passed Patient's Bill of Rights and the Senate-passed Patient's Bill of Rights Plus, particularly on the contentious issue of health plan liability.

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 CHAFEE'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 his career has been his command of the issues, hard work and 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 1996 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. He was tough, but fair.

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 MCCAIN.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative 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:

S. 1916

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 ''FAA Authorization Extension Act.''

SEC. 2. EXTENSION OF AIRPORT IMPROVEMENT PROGRAM, ETC.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 of title 49, United States Code, is amended by striking ''$2,410,000,000 for the fiscal year ending September 30, 1999,'' and inserting ''$1,237,500,000 for the 6-month period ending March 21, 2000.''.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) of such title is amended by striking ''September 30, 1999,'' and inserting ''March 31, 2000,''.

SEC. 3. EXEMPTION FOR AIRCRAFT MODIFICATION OR DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING RELATED FLIGHTS.

Section 47528 of title 49, United States Code, is amended——

(1) by striking ''subsection (b)'' in subsection (a) and inserting ''subsection (b) or (f)'';

(2) by adding at the end of subsection (e) the following:

''(4) An air carrier operating Stage 2 aircraft under this subsection may transport Stage 2 aircraft to or from the 48 contiguous States on a non-revenue basis in order——

''(A) to perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

''(B) conduct operations within the limitations of paragraph (2)(B).''; and

(3) adding at the end thereof the following:

''(f) AIRCRAFT MODIFICATIONS, DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING.—

''(1) IN GENERAL.—The Secretary shall permit a person to operate after December 31, 1999, a Stage 2 aircraft in nonrevenue service through the airspace of the United States or to or from an airport in the contiguous 48 States in order to—

''(A) sell, lease, or use the aircraft outside the contiguous 48 States;

''(B) scrap the aircraft;

''(C) obtain modifications to the aircraft to meet Stage 3 noise levels;

''(D) perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;

''(E) deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

''(F) prepare or park or store the aircraft in anticipation of any of the activities described in subparagraphs (A) through (E); or

''(G) divert the aircraft to an alternative airport in the contiguous 48 States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in subparagraphs (A) through (F).

''(2) PROCEDURES TO BE PUBLISHED.—The Secretary shall establish and publish, not later than 30 days after the date of enactment of the FAA Authorized Extension Act, a procedure to implement paragraph (1) of this subsection through the use of categorical waivers, ferry permits, or other means.''.

SEC. 4. NOISE STANDARDS FOR EXPERIMENTAL AIRCRAFT.

''(a) IN GENERAL.—Section 47528(a) of title 49, United States Code, is amended by inserting ''(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)'' after ''civil subsonic turbojet''.

''(b) FAR MODIFIED.—The Federal Aviation Regulations contained in part 14 of the Code of Federal Regulations that implement section 47528 and related provisions shall be deemed to incorporate the change made by subsection (a) effective on the date of enactment of this Act.

SEC. 5. EXISTING AND PENDING DETERMINATIONS NOT AFFECTED.

The amendments made by section 3 and by section 4(a), and the provisions of section 4(b), do not interfere with or otherwise modify any determination—

(1) made by the Federal Aviation Administration under part 161 of title 14 of the Code of Federal Regulations before November 2, 1999; or

(2) pursuant to an application that was pending before the Federal Aviation Administration for a determination under that part on November 1, 1999.

SEC. 6. EXTENSION OF WAR RISK INSURANCE PROGRAM.

Section 44310 of title 49, United States Code, is amended by striking ''after'' and all that follows and inserting ''after March 31, 2000.''.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed immediately to the executive session to consider the following nominations on the Executive Calendar: No. 401, and nominations on the Secretary's desk in the Army, Marine Corps, and Navy.

I finally ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, that the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Kevin P. Green, 6805

NOMINATIONS PLACED ON THE SECRETARY'S DESK

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.

Marine Corps nomination of Karl G. Hartenstine, which was 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, Jr., 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

EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations

on today's Executive Calendar: Nos. 59, 98, 99, 133, 203, 204, 244, 245, 246, 253, 254, 255, 256, 270, 275, 276, 277, 278, 279, 238, 239, 281 through 290, 293, 321, 322 through 325, 328, 330, 335 through 342, 344 through 365, 367 through 376, 378, 379, 380, 381, 382, 393, 395, 396, 397, 398, 402, 403, and all nominations on the Secretary's desk in the Foreign Service.

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, succeeded in that quest and am very pleased tonight she will be confirmed to the Federal district court.

I thank 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.

Kelly H. Carnes, of the District of Columbia, to be Assistant Secretary of Commerce for Technology Policy.

INTER-AMERICAN DEVELOPMENT BANK

Lawrence Harrington, 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. Montgomery, 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.

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.

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.

DEPARTEMENT OF TRANSPORTATION

Stephen D. Van Beek, of the District of Columbia, to be Associate Deputy Secretary of Transportation.

Michael J. Frazier, of Maryland, to be an Assistant Secretary of Transportation.

DEPARTMENT OF COMMERCE

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, Jr., 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, 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.

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 Texas, 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, 2005.

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, Jr., of New York, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2001.

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 California for a term of four years.

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 for 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 an Assistant Commissioner of Patents and Trademarks.

FEDERAL MEDIATION AND CONCILIATION DIRECTOR

Charles Richard Barnes, of Georgia, to be Federal Mediation and Conciliation Director.

DEPARTMENT OF EDUCATION

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, 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.

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.

DEPARTMENT OF EDUCATION

Michael Cohen, of Maryland, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

POSTAL SERVICE

John F. Walsh, of Connecticut, to be a Governor of the United States Postal Service for a term expiring December 8, 2006.

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, Jr., of Maryland, to be Inspector General, Social Security Administration.

DEPARTMENT OF STATE

David H. Kaeuper, of the District of Columbia, 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.

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.

John E. Lang, of Wisconsin, 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 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 Assistant Secretary of State (Arms Control).

Donald Stuart Hays, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with rank of Ambassador.

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.

Michael Edward Ranneberger, of Virginia, 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 Mali.

Harriet L. Elam, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Gregory Lee Johnson, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Jimmy J. Kolker, of Missouri, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Burkina Faso.

Joseph W. Prueher, of Tennessee, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

Mary Carlin Yates, of Washington, 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 Burundi.

Charles Taylor Manatt, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America 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.

Martin S. Indyk, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Anthony Stephen Harrington, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

Craig Gordon Dunkerley, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the Rank of Ambassador during his tenure of Service as Special Envoy for Conventional Forces in Europe.

Robert J. Einhorn, of the District of Columbia, to be an Assistant Secretary of State (Non-proliferation).

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, 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 A. Wulf, of Virginia, a Career Member of the Senior Executive Service, to be a Special Representative of the President, with the rank of Ambassador.

AFRICAN DEVELOPMENT BANK

Willene A. Johnson, 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 Assistant Secretary of State (Near Eastern Affairs).

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.

William B. Bader, of Virginia, 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 of America to the Fifty-fourth Session of the General Assembly of the United Nations.

J. Stapleton Roy, of Pennsylvania, a Career Member of the Senior Foreign Service with the Personal Rank of Career Ambassador, to be an Assistant Secretary of State (Intelligence and Research).

THE JUDICIARY

Ann Claire Williams, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

Virginia A. Phillips, of California, to be United States District Judge for the Central District of California.

Faith S. Hochberg, of New Jersey, to be United States District Judge for the District of New Jersey.

DEPARTMENT OF JUSTICE

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.

SOCIAL SECURITY ADMINISTRATION

William A. Halter, of Arkansas, to be Deputy Commissioner of Social Security for the term expiring January 19, 2001. (New Position)

DEPARTMENT OF THE TREASURY

Gregory A. Baer, of Virginia, to be an Assistant Secretary of the Treasury.

INTER-AMERICAN FOUNDATION

Kay Kelley Arnold, of Arkansas, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 2004.

DEPARTMENT OF STATE

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.

FEDERAL MARITIME COMMISSION

Joseph E. Brennan, of Maine, to be a Federal Maritime Commissioner for the term expiring June 30, 2003.

Antony M. Merck, of South Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2001.

FOREIGN SERVICE

Nominations beginning Samuel Anthony Rubino, and ending Christopher Lee Stillman, which nominations were received by the Senate and appeared in the Congressional Record of February 23, 1999.

Nominations beginning George Carner, and ending Steven G. Wisecarver, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 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 Rueben 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 9, 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 in New Jersey's history, 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 she unraveled widespread police corruption in several North Jersey communities.

Her office also has a record of aggressively pursuing child pornography cases. 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 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 prominent 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 judge.

Mr. MOYNIHAN. Mr. President, the Senate has just confirmed Daniel French as the new United States Attorney for the Northern District of New York and may I say I could not be more pleased.

Dan French is a native of the District having been born and brought up in Jefferson County, graduated cum laude from the University of the State of New York College at Oswego and is a cum laude graduate of the Syracuse University Law School where he served as an editor of the Law Review. Following law school Mr. French clerked for Judge Rosemary Pooler. Judge Pooler was then a United States District Court Judge and not sits on the Second Circuit Court of Appeals. Mr. French then joined the U.S. Attorney's office where he served until being named interim United States Attorney by Attorney General Janet Reno.

Like all of the District Court and U.S. Attorney Candidates I have recommended to the President, Mr. French was sent to me by my Screening Panel after he and other candidates were seen and their credentials reviewed.

But I must say I was particularly pleased to send Dan's name to the President. And pleased that the President, after reviewing his record, agreed that he should be nominated. For Dan French was with me for several years as a professional staff member on the Environment and Public Works Committee, the Committee on Finance and on my personal staff. I know him well. And I know that he has the kind of intelligence, learning, judgment and integrity that will make him an outstanding U.S. Attorney.

Mr. President, the Northern District of New York, in which our family home at Pindars Corners is located is vast. It services 3.5 million citizens and encompasses 32 of New York's 62 counties, covering 60% of the State's geographical area. By comparison, the district is larger than the combined land areas of Vermont, Massachusetts, Connecticut and Rhode Island. This large area with a diverse population is fortunate to have a native son, who understands its ways, enforcing the laws of the United States.

Years ago, another upstater, Supreme Court Justice Robert H. Jackson wrote that ''the citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility.'' I know that Dan French will be guided by Justice Jackson's words.

Dan French will be a splendid U.S. Attorney and I congratulate him on his confirmation and salute his wife, television broadcaster Kelly French and their two children Margaret Anne and Gavin Mitchell.

Mr. LEAHY. Mr. President, I am pleased that the Senate has voted today on the confirmation of Judge Florence-Marie Cooper to be a United States District Court Judge for the Central District of California.

Florence-Marie Cooper is a distinguished Californian. She has distinguished herself with a long career of service in the California state court system. She was a Deputy City Attorney for the City of Los Angeles in 1977. From 1978 to 1983, she was a Senior Research Attorney for the California Court of Appeal Second Appellate District. Then, from 1983–1990 she was a Court Commissioner for the Los Angeles Superior Court. From 1990–1991 she was a Judge in the Los Angeles Municipal Court. Since 1991 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 Department.

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 nomination of Judge 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 with a ''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 say there is no 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 vote 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, 44 months. The nomination that has been longest on the Senate Executive Calendar 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 to the tens of 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 Marsha Berzon still confront as their nominations continuing to be 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.

I have great respect for this institution and its traditions. Still, I must say that this use of secret holds for extended periods that doom a nomination

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 almost 2 years with respect to 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 Berzon 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, Judge 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 judicial 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 PRESIDING OFFICER. Under the previous order, 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 PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

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 from all our wars. 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 all our thoughts.

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 distinguished routes, 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 remember 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 families.

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 of what was occurring 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 MIAs. 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 specially 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 by 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 vigilance, their fight is now 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 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 air station in Atlanta and Moody Air Force Base in Valdosta.

I thank the Chair.

Mr. GRASSLEY. I ask unanimous consent 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 1999 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 motion 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:

S. RES. 232

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 July 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.

THE WHITE HOUSE, *November 10, 1999.*

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 WELLSTONE. 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 satellite dishes and TV sets around this country going black 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 the number of nominations that have gone through. I hope my side of the aisle will be as diligent in clearing the rest.

Mr. GRASSLEY. Mr. President, in response to what the Senator from Vermont said, obviously I am in no position to speak for our 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 here on 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.

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.

ADJOURNMENT UNTIL 10 A.M., FRIDAY, NOVEMBER 12, 1999

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:56 p.m., adjourned until Friday, November 12, 1999, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 10, 1999:

DEPARTMENT OF EDUCATION

FRANK S. HOLLEMAN, OF SOUTH CAROLINA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE MADELEINE 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, 2000, VICE KENNETH BYRON HIPP, TERM EXPIRED.

ERNEST W. DUBESTER, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2001. (REAPPOINTMENT)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

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, VICE ELI J. SEGAL, TERM EXPIRED.

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, VICE ROBERT B. ROGERS, TERM EXPIRED.

OVERSEAS PRIVATE INVESTMENT CORPORATION

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, VICE MARK ERWIN.

DEPARTMENT OF STATE

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, VICE STUART E. EIZENSTAT.

UNITED STATES INTERNATIONAL TRADE COMMISSION

DEANNA TANNER OKUN, OF IDAHO, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR A TERM EXPIRING JUNE 16, 2008, VICE CAROL T. CRAWFORD, TERM EXPIRED.

DEPARTMENT OF VETERANS AFFAIRS

ROBERT M. WALKER, OF WEST VIRGINIA, TO BE UNDER SECRETARY OF VETERANS AFFAIRS FOR MEMORIAL AFFAIRS. (NEW POSITION)

CORPORATION FOR PUBLIC BROADCASTING

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, VICE ALAN SAGNER, RESIGNED.

DEPARTMENT OF TRANSPORTATION

MONTE R. BELGER, OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE LINDA HALL DASCHLE.

MORRIS K. UDALL SCHOLARSHIP & EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

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, VICE RONALD KENT BURTON, TERM EXPIRED.

DEPARTMENT OF STATE

LUIS J. LAUREDO, OF FLORIDA, TO BE PERMANENT REPRESENTATIVE OF THE UNITED STATES TO THE ORGANIZATION OF AMERICAN STATES, WITH THE RANK OF AMBASSADOR, VICE VICTOR MARRERO.

FEDERAL LABOR RELATIONS AUTHORITY

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, VICE PHYLLIS NICHAMOFF SEGAL, TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOAN R. CHALLINOR, 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. (REAPPOINTMENT)

EXECUTIVE OFFICE OF THE PRESIDENT

DONALD RAY VEREEN, JR., OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY. (NEW POSITION)

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 SHAVERS, OF CALIFORNIA, TO BE UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY.

KELLY H. CARNES, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR TECHNOLOGY POLICY.

INTER-AMERICAN DEVELOPMENT BANK

LAWRENCE HARRINGTON, 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. MONTGOMERY, 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.

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.

MISSISSIPPI RIVER COMMISSION

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 USC 642).

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 USC 642).

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 ASSOCIATE DEPUTY SECRETARY OF TRANSPORTATION.

MICHAEL J. FRAZIER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

DEPARTMENT OF COMMERCE

GREGORY ROHDE, OF NORTH DAKOTA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION.

SURFACE TRANSPORTATION BOARD

LINDA JOAN MORGAN, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2003. (REAPPOINTMENT)

DEPARTMENT OF AGRICULTURE

PAUL W. FIDDICK, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

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, 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.

FEDERAL MEDIATION AND CONCILIATION DIRECTOR

CHARLES RICHARD BARNES, OF GEORGIA, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR.

DEPARTMENT OF EDUCATION

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, 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.

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.

DEPARTMENT OF EDUCATION

MICHAEL COHEN, OF MARYLAND, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

POSTAL SERVICE

JOHN F. WALSH, OF CONNECTICUT, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2006.

UNITED STATES 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, JR., OF MARYLAND, TO BE INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION.

DEPARTMENT OF STATE

DAVID H. KAEUPER, OF THE DISTRICT OF COLUMBIA, 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.

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.

JOHN E. LANGE, OF WISCONSIN, 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 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 ASSISTANT SECRETARY OF STATE (ARMS CONTROL).

DONALD STUART HAYS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

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.

MICHAEL EDWARD RANNEBERGER, OF VIRGINIA, 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 MALI.

HARRIET L. ELAM, OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL.

GREGORY LEE JOHNSON, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SWAZILAND.

JIMMY J. KOLKER, OF MISSOURI, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BURKINA FASO.

JOSEPH W. PRUEHER, OF TENNESSEE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF CHINA.

MARY CARLIN YATES, OF WASHINGTON, 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 BURUNDI.

CHARLES TAYLOR MANATT, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA 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.

MARTIN S. INDYK, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

ANTHONY STEPHEN HARRINGTON, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATIVE REPUBLIC OF BRAZIL.

CRAIG GORDON DUNKERLEY, OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR CONVENTIONAL FORCES IN EUROPE.

ROBERT J. EINHORN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (NON-PROLIFERATION). (NEW POSITION)

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, 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 A. WULF, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE A SPECIAL REPRESENTATIVE OF THE PRESIDENT, WITH THE RANK OF AMBASSADOR.

AFRICAN DEVELOPMENT BANK

WILLENE A. JOHNSON, 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 ASSISTANT SECRETARY OF STATE (NEAR EASTERN AFFAIRS).

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.

WILLIAM B. BADER, OF VIRGINIA, 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 OF AMERICA TO THE FIFTY-FOURTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

J. STAPLETON ROY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE WITH THE PERSONAL RANK OF CAREER AMBASSADOR, TO BE AN ASSISTANT SECRETARY OF STATE (INTELLIGENCE AND RESEARCH).

SOCIAL SECURITY ADMINISTRATION

WILLIAM A. HALTER, OF ARKANSAS, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPIRING JANUARY 19, 2001.

DEPARTMENT OF THE TREASURY

GREGORY A. BAER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

INTER-AMERICAN FOUNDATION

KAY KELLEY ARNOLD, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2004.

DEPARTMENT OF STATE

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.

CAROL MOSELEY-BRAUN, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NEW ZEALAND.

CAROL MOSELEY-BRAUN, OF ILLINOIS, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SAMOA.

FEDERAL MARITIME COMMISSION

JOSEPH E. BRENNAN, OF MAINE, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2003.

ANTONY M. MERCK, OF SOUTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2001.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

FLORENCE-MARIE COOPER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

WILLIAM JOSEPH HAYNES, JR., 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.

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 TEXAS, 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, 2005.

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. (REAPPOINTMENT)

DIANA E. MURPHY, OF MINNESOTA, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION.

STERLING R. JOHNSON, JR., OF NEW YORK, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2001.

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 CALIFORNIA FOR A TERM OF FOUR YEARS.

JOHN W. MARSHALL, OF VIRGINIA, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE.

DEPARTMENT OF COMMERCE

Q. TODD DICKINSON, OF PENNSYLVANIA, TO BE COMMISSIONER OF PATENTS AND TRADEMARKS.

ANNE H. CHASSER, OF OHIO, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS.

DEPARTMENT OF THE JUSTICE

KATHRYN M. TURMAN, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE FOR VICTIMS OF CRIME.

DEPARTMENT OF JUSTICE

MELVIN W. KAHLE, OF WEST VIRGINIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR A TERM OF FOUR YEARS.

THE JUDICIARY

ANN CLAIRE WILLIAMS, OF ILLINOIS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT.

VIRGINIA A. PHILLIPS, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

FAITH S. HOCHBERG, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

DEPARTMENT OF JUSTICE

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.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) KEVIN P. GREEN, 6805.

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 ON NOVEMBER 3, 1999.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING SAMUEL ANTHONY RUBINO, AND ENDING CHRISTOPHER LEE STILLMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 23, 1999.

FOREIGN SERVICE NOMINATIONS BEGINNING GEORGE CARNER, AND ENDING STEVEN G. WISECARVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 1999.

FOREIGN SERVICE NOMINATIONS BEGINNING JOHNNIE CARSON, AND ENDING SUSAN H. SWART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 1999.

FOREIGN SERVICE NOMINATIONS BEGINNING RUEBEN MICHAEL RAFFERTY, AND ENDING STEPHEN R. KELLY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 1999.

FOREIGN SERVICE NOMINATIONS BEGINNING C. MILLER CROUCH, AND ENDING GARY B. PERGL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 9, 1999.

FOREIGN SERVICE NOMINATIONS BEGINNING RITA D. JENNINGS, AND ENDING CAROL LYNN DORSEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 3, 1999.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF KARL G. HARTENSTINE.

IN THE NAVY

NAVY NOMINATIONS BEGINNING LYNNE M. HICKS, AND ENDING WILLIAM D. WATSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 3, 1999.

NAVY NOMINATION OF JOHN R. DALY, JR.