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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

O God our Father, we thank You for the blessings of life. Help us to see them, to count them, and to remember them so that our lives may flow in ceaseless praise. Give us eyes to see the invisible movement of Your Spirit in people and in events. Assure us that You are present, working out Your purposes because You have plans for us. Focus our attention on the amazing way You work through people—arranging details, solving complexities, and bringing good out of whatever difficulties we commit to You. Help us to be expectant for Your serendipities, Your unusual acts of love in usual circumstances. Now we look forward to a great day filled with Your grace! You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the leadership time is reserved.

SCHEDULE

Mr. COVERDELL. Mr. President, on behalf of the leader, today the Senate will complete the final 2 hours of debate on the motion to proceed to the Death Tax Elimination Act. By previous consent, at 11:30 a.m. the Senate will begin a vote in relation to the Bennett amendment to the DOD authorization bill. Following the 11:30 a.m. vote, the Senate will resume consideration of the death tax legislation. However, if no agreement can be reached regarding its consideration, the Senate may resume the Interior appropriations bill. A finite list of amendments has been agreed to with respect to this bill and, therefore, votes could occur throughout the day in an effort to complete action on this important spending bill.

As a reminder, an agreement was reached regarding the DOD authorization bill, and it is hoped that the Senate can conclude that bill by the close of business today or first thing tomorrow morning. The leadership has announced that the Senate will consider and complete the reconciliation bill during this week's session.

I thank my colleagues for their attention.

DEATH TAX ELIMINATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 8, which the clerk will report.

The legislative clerk read as follows:

A motion to proceed to the bill (H.R. 8) to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate.

The Senator from Georgia.

Mr. COVERDELL. Mr. President, this tax has been discussed at length over the last several years. Several years ago, we reduced some of the impact of this tax, but not much. This tax is among the most often raised issues when I am among constituents.

A number of people have said during the course of the debate that the tax does not affect many Americans. Statistically, that is accurate, it does not. Therein lies something very important for us to consider about this tax, and there is good news in this.

The fact is that while there are a limited number of Americans affected by it, the vast number of Americans, a huge majority, think it should be eliminated. Why is that? Why would a tax that is rather isolated cause a vast majority of Americans to want to do away with it? It is because Americans are still fair about these things, and they do not think this is a fair tax. They do not like the concept of any family working its entire life, building a business, and then the Government, which did not do much to make the business successful—if it was not in the way—tapping in saying: Now that belongs to us, not you who produced it, but us. They do not like that.

I suspect a lot of Americans contemplate there will be a time when they will have grown their business, and they know it is going to take years to do it and hard sweat and worry and anxiety. Then the idea that because the founder or the developers of that business had reached the end of their lives and it no longer belonged to that family, it is inconsistent with the way Americans think. They do not think it is fair, and they do not like it hanging over their heads.

I have always taken that as a sign of great news that Americans still hold a fundamental American value that it belonged to those who worked and earned it and that the Government ought not impose an egregious and unfair tax. Even if it does not affect me, I do not think it should happen. We should take heart from that because therein lies our ability to ultimately make the tax system more fair across the board. No one has much faith in it. They are cynical about it. They are paying the highest taxes they have ever paid. There is a latent desire to fix the system, and it shows itself vividly in the death tax, or the estate tax.

Another thing which causes me to want to see its elimination is I do not

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think it is imposed fairly. An undue burden, as with many taxes, falls on the small business person, the small business family, the reasonable size family farm or ranch. A lot of people who are ensnared by this tax do not even know it has hit them because their assets are in property or equipment of which they really do not know the total value. They get pushed over the edge. Suddenly, this reaper comes through and falls on this small family business, small family farm, or ranch.

It is devastating because you have to pay the tax in 9 months—I think that is correct—and those kinds of businesses and those kinds of farms do not have a huge cash account at some financial institution. The value in that estate is in land and equipment and goodwill.

So when the Government says: It is worth $4 million, and you owe us over $2 million. What are the family's options? Very limited. There is no $2 million. So the business has to be sold or half the farm has to be sold or broken up, components of it sold, so they can raise enough cash to pay this insatiable appetite in Washington, DC, to get hold of everybody's assets, which means the people who are employed by that business or farm are typically looking for another job; they are in a job line somewhere.

It is disruptive. It is not useful for the economy. It costs jobs. There are millions and millions of dollars spent by larger businesses, mostly, to avoid this; and to some extent they can, which is again why I say it is pushing this down on what we would call the small business or farm. They are taking the principal hit here.

First, they cannot afford the consultants to figure out how to minimize it. Often they do not know they are going to be impacted by it, and they do not have the cash to pay it. So the assets have to be turned over and sold. And if you have to do it in 9 months—I do not know how many people around here have ever gone through the process of selling even a home, but sometimes that ''For Sale'' sign stays out there a long time. You can take your ''For Sale'' sign down, but the Government does not allow you to delay this tax. You are going to pay it. So if you have to sell that farm or that business at a fire sale price, you have to sell it. Tough luck, says Uncle Sam.

I ran a small business for about 38 years. That is a long time. I do not remember anybody from Washington ever coming in to help me run it. In fact, more than once I almost got the idea they would just as soon we did not run it; we were fighting them off. Somewhere they got the idea they would own half those assets. I know I am joined by millions of Americans who do not agree with that.

Just to restate it, it does not affect a large number of Americans, but a huge number of Americans want it gone. They do not think it is fair. They think it is inappropriate, and it is. They think it is confiscatory, and it is. I think they hold to the American dream and figure one day that could impact them, and indeed it might.

Mr. KYL. Would the Senator yield for a brief comment, a question?

Mr. COVERDELL. Sure.

Mr. KYL. The point the Senator just made is validated by a Gallup Poll that just came out, conducted from June 22 to 25. It shows that 60 percent of adults favor this proposal that would eliminate all inheritance taxes, compared to 35 percent who oppose it—almost 2–1 support for elimination of the death tax.

Interestingly enough, to the point the Senator just made, only 17 percent of Americans say they would personally benefit from the tax elimination, while 43 percent say they would not benefit.

Mr. COVERDELL. Two-to-one.

Mr. KYL. Yet they support its repeal because they understand it is unfair.

To the point of the Senator from California yesterday, who said this all boils down to whose side are you on, no, it does not. What it boils down to is that the vast majority of the American people, understanding, even though it may not affect them, it is a totally unfair tax, agree with us that it should be repealed.

Mr. COVERDELL. I appreciate the Senator citing the poll. I have known from previous data of its overwhelming support. I think the point that 2–1 they favor eliminating it and 2–1 they think it probably will never affect them—as I said, I always take heart in this because it demonstrates the deep reserve of fairness among Americans about tax policy and about their Government.

This is not a fair tax, nor is it implemented fairly. It discriminates against those who do not have the resources to try to ameliorate it. So it just really builds up on the small farmer, small businessperson. They are paying an unfair burden here, on top of which, I would add, it creates turmoil in the workplace. It costs us jobs. It creates enormous anxiety and puts an undue and unnatural pressure on the financial decisions those who are impacted by it have to make.

You cannot manage the transaction of the sale of a business typically in 9 months; there are too many forces at work. It is very difficult to do. I have been through that, too. So you are creating a timetable that is unnatural and, therefore, you create another burden on the family in about as difficult a time as you can imagine. They have already suffered an enormous personal loss, and then here comes Uncle Sam: OK, 9 months, belly up.

So I appreciate the work of the Senator from Arizona and all those others who have come to speak in favor of the elimination of the tax. I know we are going to be successful. I do not know how long it is going to take. Because Americans do not want this tax. So whether it occurs in this current debate, which I hope it does, or one to follow, I know this is going to be changed.

I end with this. I do not go to a single meeting in my State where there are not several people who raise this question. My State is deeply agricultural, so we have thousands of small farmers. This is like a loaded gun pointed at their head. So they are waiting for us to do something about this because they know it is unfair. And it is creating an unnatural worry in a community, I might add, that is already under enormous stress. Agriculture is all across the country. This adds to that burden. It does so in a very dramatic way.

I thank the Senator for according me some time here this morning and wish him luck on the success of this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I heard the speech of my good friend from Georgia on the House bill. After very thorough consideration of this matter, I reach a different conclusion, I must say to my good friend from Georgia. Frankly, I urge my colleagues to oppose the House bill to repeal the estate tax. I do this for three reasons.

First, there is a significant chance that the debate will be conducted under the restrictions of cloture, which denies Senators a fair opportunity to propose amendments.

Second, the House bill reforms the estate tax the wrong way. There are all kinds of ways to reform the estate tax. The House bill is the wrong way.

Third, the House bill crowds out and pushes aside other more important priorities in which the vast majority of the American people are far more interested.

Before getting into those arguments in detail, I will provide some background about the estate tax. Nobody likes paying taxes, whether it is income taxes, sales taxes, payroll taxes, corporate taxes, or estate taxes. Of course, if one asks in a poll, would you like to have a certain tax repealed, the vast majority of Americans would say, yes, I don't like paying that tax, repeal it. Unfortunately, we all know we do have to pay some tax. After all, in a civilized society, there is some revenue that has to be raised to support society's governmental, organizational purpose and structure. The only question is, obviously, how much and what is the balance.

We should aim to have a tax system that raises the minimum amount of revenue that is necessary and does it in a fair and balanced way. For more than 80 years, there has been a consensus that the estate tax is a small but important part of a fair and balanced tax system. It has been a bipartisan consensus.

The Federal estate tax was first proposed by President Theodore Roosevelt. It was repeated by his successor, William Howard Taft. In fact, in

his inaugural address in 1909, President Taft said that it may be necessary to raise additional revenue and that if so ''new kinds of taxation must be adopted, and among these I recommend a graduated inheritance tax as correct in principle and as certain and easy of collection.'' That was President William Howard Taft.

A few years later, in 1916, Congress needed to raise additional revenue primarily to prepare for possible involvement in World War I. Congress had to make hard choices. Congress could either raise tariff rates or it could come up with an alternative. This is what the House Committee on Ways and Means said:

> It is probable that no country in the world derives as much revenue per capita from its people through the consumption tax as does the United States. It is therefore deemed proper that, in meeting the extraordinary expenditures for the Army and the Navy our revenue system should be more evenly and equitably balanced and a larger portion of our necessary revenues collected from the incomes and inheritances of those deriving the most benefit and protection from the government.

Congress enacted the estate tax in 1916. It has been amended several times. For example, in 1932, in response to revenue needs generated by the Great Depression, the rates were increased significantly. In 1981, under President Reagan, the rates were cut significantly, with the top rate falling from 70 percent to 55 percent. Today the Federal estate tax applies to estates with a value of more than $675,000. That threshold amount is scheduled to rise to $1 million by the year 2006. There are special rules for farms and for family businesses.

All told, the tax applies to the estates of about 2 out of every 100 people who die each year. That is about 2 percent. It raises $28 billion a year. To put that in perspective, it is 3 percent of the amount that is raised by the Federal income tax. under the estate tax.

That brings me to the House bill we have before us today. The House bill works in two steps. First, over the first 9 years, the House bill gradually reduces estate taxes down to a top rate of about 40 percent. Then in the year 2010, a full 10 years after enactment, it completely repeals the estate tax. At the same time the House bill imposes a new requirement, something of which not many Senators are aware. People who inherit estates worth more than certain amounts must maintain what tax lawyers call the ''carryover basis'' of inherited assets. That is in the House bill.

All told, the 10-year cost of the House bill is $105 billion. But it is important to note that the House bill is constructed to disguise the real long-term costs. In the 10th year, when the estate tax is completely repealed, the cost is almost $50 billion a year, and the cost will rise each year after that. I have seen estimates up to $750 billion over the second 10 years.

That, in a nutshell, is the House bill.

As I said at the outset, I oppose the bill. I do so for several reasons. My first concern is with the process. Once again, the majority may invoke cloture as a first resort. This limits debate. It limits the ability for Senators to offer amendments. Most important of all, it denies the American people an opportunity to have their elected representatives conduct a full, unfettered public debate about a very important issue. I hope that we can avoid cloture and have an open debate.

I have another concern about the process. This is a serious issue, whether we repeal a Federal estate tax. We are considering a proposal that can be fairly described as radical—total repeal. That is pretty radical. The House bill would completely repeal a tax that has been an integral part of the Federal tax system since 1916; repeal it, lock, stock, and barrel, get rid of it totally, with no amendments and no hearing. That raises many serious questions.

One is the impact across income levels. I am not talking about class warfare. Believe me, that is one thing I don't like to get into; I don't believe in it. That is bashing the rich. Rather, I am talking about fully understanding the impact of this proposal on the overall fairness and balance of our tax system, a subject we have not addressed. It hasn't even been raised; we haven't had the opportunity.

Another question is about the new rules to maintain the carryover basis of certain inherited assets—very complicated, totally new, not debated, not even known by a majority of Senators. In some cases, this would require recordkeeping across several generations. Just think of that, requiring new recordkeeping across several generations. I remember back when Congress tried to do something similar in 1978. The new law was extraordinarily complex. It created a fierce public backlash, and we quickly repealed it.

We would do the same if this were ever enacted into law; I guarantee it. Do we want people to have to keep track of the price that their great-great-grandparents paid for property and investments? Under the House bill they will have to.

Another question is the impact on charitable giving. A great deal of charitable giving comes from bequests. People make these bequests primarily because they want to help communities. That is a good cause. But we all know in some cases there is a tax planning element because charitable contributions are deducted from the value of an estate. Do we know how repeal of the estate tax will affect charitable giving? Has that been discussed, debated? Many estate tax lawyers I talk to tell me: Max, if you repeal the Federal estate tax, it is going to have a substantial effect on charitable giving. There will be a substantial reduction in charitable giving, major, big time, if you repeal the Federal estate tax.

Another question is the impact on States. Currently—this is not well known; how could it be, there hasn't been a hearing; we had no opportunity for amendments—currently an estate receives a credit for inheritance and estate taxes that the estate pays to a State government. As a result, these State taxes generally don't increase the overall burden on an estate. Instead, they shift revenues from the Federal Government to the States. It is about a third.

The long and short of it is, about a third of all the Federal estate taxes that are collected go to States. We, therefore, collect the revenue that goes to the States. Under a total repeal, that is the end of that. Does anybody know that? Do the States know that? Do the Governors know that? I don't think they have focused on this because they don't know about it. How could they? There have been no hearings.

If the Federal estate tax umbrella is repealed, many States may face strong pressure to reduce or eliminate their own inheritance taxes and estate taxes—resulting in unintended consequences, unthought-out consequences, unknown consequences.

Still another question is how repeal of the estate tax will affect the concentration of wealth. As we all know, one reason the estate tax was enacted and later strengthened was to limit the accumulation of huge fortunes that can be passed on to create economic dynasties. Are we prepared to say that today this is no longer an issue?

Now I am not trying to be judgmental, Mr. President, believe me. I am just raising very important questions that have to be discussed, debated, and thought out. I am not suggesting I have all the answers. I am simply saying these are very serious questions that deserve more time and attention than we are giving them. After all, we are not referring the House bill to the Finance Committee for a hearing where the questions can be addressed. In fact, the Finance Committee hasn't held a hearing on estate taxes in this Congress. I will repeat that. The Finance Committee has not held a hearing on estate taxes in this Congress. Instead, we are rushing the House bill to the floor under cloture.

Why are we doing this? Why not hold hearings so that we can more fully understand the implications of the House bill? That is just my first concern in the process.

Now my second concern. While the House bill reforms the estate tax, it reforms it in the wrong way. There is a right way and a wrong way to do things. The House bill reforms the wrong way.

For a long time, I have supported reform of the estate tax. Most of us here do. I have worked on special rules for farms and ranches. A few years ago, I worked closely with Senator Dole on reforms for family-owned small businesses.

Despite these and some other improvements, the estate tax still hits

some people too hard, especially those who own farms, ranches, and small businesses. We should fix that. We should fix it now. We need to help our farmers and our small businesses. The amendment that I and the majority of my side support will do that.

The House bill that we may adopt, would do very little for those estates, very little for those farmers, ranchers, and small business people—until 10 years later when, under their bill, it is fully repealed.

On the other hand, the alternative that Senators MOYNIHAN, CONRAD, and I propose would reform the estate tax in the right way. It would do two things that are simple but effective.

First, we dramatically increase the amount that is exempt from the estate tax. Currently, it is $675,000. We increase it to $1 million per spouse right away. And a few years later, we begin to increase it again until it reaches $2 million. For a couple, that would be $4 million.

Second, we increase the family-owned business exclusion to $4 million per spouse. For a couple, that is $8 million.

These simple changes have a huge effect. The first year, we would exempt over 40 percent of the estates that currently are subject to an estate tax. The fact is, it is much more relief for estates in this range than the House bill would provide.

As this chart shows, the Democratic alternative is on the left. This chart shows who is left paying taxes after the first year. On the left side, you can see the bar there, which represents the Republican bill, 50,000 Americans would continue to pay estate taxes in the first year, just like they would under current law. In the first year, as it shows on the right side, under the Democratic alternative, only 30,000 Americans would pay estate taxes. Guess what. That basically continues for 9 years—not totally, but basically.

So the Democratic alternative provides relief—significant relief—in the first 10 years. The Republicans' doesn't. There is some near the end. But there is a cliff effect after 10 years, with all of the consequences we have not even talked about.

These simple changes have a huge effect. The first year, we would exempt over 40 percent of the estates that are currently subject to an estate tax. Under the Republican alternative, none would be exempt over the first 10 years. Over the longer term, when the provisions take full effect, the Democratic proposal would exempt two-thirds of all estates, three-quarters of all small businesses, and 90 percent of all farms and ranches that would otherwise have to pay estate tax.

Remember, only 2 percent of the estates pay an estate tax. But we are saying in the Democratic alternative that three-quarters of those who currently pay—three-quarters of the small businesses, two-thirds of all estates, and 90 percent of all farmers and ranchers would be exempt.

This chart shows that, under current law, the Democratic alternative exempts three-quarters of all family-owned businesses. The Democratic alternative exempts 95 percent of farms. On the left, under current law—this is a huge bar. That means those folks are still paying. Under the Democratic alternative, very few pay. You can see that.

This other chart is showing the same thing with respect to all estate taxes. That is, over the first 10 years, fewer Americans will be paying estate taxes than under the House bill.

Next year, it is expected that about 2.5 million Americans will die. Roughly 50,000 will have estates that would pay an estate tax under current law. Under the House bill, every one of these estates will still pay an estate tax, but at slightly lower rates, with the greatest rate reductions going to the larger estates.

Again, the greatest rate reductions will go to the larger estates; whereas, under the Democratic alternative, the bulk—almost all of the relief—is immediate, and it goes to farms, ranches, and small businesses. The small business exclusion is raised to $8 million per couple eventually, and the unified credit is raised to $4 million eventually.

So under our substitute, fully 20,000 of those 50,000 estates won't pay an estate tax at all in the very first year. They will be exempt, period. The exemptions will be concentrated on the farms, ranches, and the small businesses that need relief. That is the right kind of reform, not the wrong kind, which I mentioned earlier.

My third concern is about priorities. At the end of the day, that is what this debate is really about. We provide complete relief to estates worth up to $4 million, and farms, ranches, and small businesses worth up to $8 million—complete relief.

The proponents of the House bill insist that we go much further, at an additional cost of about $40 billion over 10 years. In later years, the cost will be much higher, about $50 billion a year. They argue, in support of the House bill, that whatever the size of an estate, we should not impose a tax at the event of death rather than when an asset is sold, and we should not impose rates as high as 55 percent.

These are serious arguments. I don't dismiss them out of hand. Senator KYL, in particular, has presented an articulate case. But reasonable people can differ. When we get the facts out and determine what is really going out, different people can reach different conclusions. I think it comes down to priorities.

It seems to me that we in this Chamber could agree in an instant to provide relief to the vast majority of farms, ranches, and small businesses and, indeed, for the vast majority of estates that are now subject to the tax. We can do it for a cost of $60 billion over 10 years—less than in the House bill.

So the real question, then, is whether it makes sense for us to spend another $40 billion to provide relief for people who are, by any measure, very well off and can take care of themselves.

Again, it is a question of priorities. Despite the euphoria the new estimated budget surpluses seem to induce, we all know that, in truth, there is no free lunch. If we reduce tax revenue by another $40 million, we will have much less for other priorities, such as health care and prescription drugs, which are much more important to most Americans.

Providing middle-class working families relief from payroll taxes is one example; providing incentives for education and savings, and providing incentives for research and development, which will keep our economy on the cutting technological edge, those are other alternatives and higher priorities of the American people which will help make our economy stronger, and providing prescription drug coverage so that seniors don't have to choose between food and medicine. Many, as we well know, have to make that choice.

Oh, yes. Let's not forget that we are paying down the national debt. That is pretty important.

I hope cloture is not sought. I hope that at some point soon we have a real opportunity to discuss and resolve our differences.

After all, there are some positive signs. The President has signaled that he has an interest in compromise.

Enlightened business leaders are now suggesting there can be a compromise. In other words, if we want to write a law rather than create a political issue, we can achieve a compromise that makes meaningful reforms in estate tax and also address other pressing national needs. That would be good news. I hope it happens.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I believe under the agreement that I am now allotted 15 minutes. I want to comment briefly.

My friend from Montana indicated a concern a number of times about limiting debate. I have to suggest that this debate could have been changed had there been an agreement on his side. The idea that there is not an opportunity to offer amendments in limited debate is not a very valid argument. That is because that side has not agreed.

I yield time to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator for yielding.

I agree with the statement of the very distinguished Senator from Montana. Reasonable people can disagree, and they can use the same statistics and come to different conclusions. We do that every day in this Chamber.

I wonder, after listening to the debate—whether it is Montana, Minnesota, or whatever the State being

represented by the other side of the aisle—how Montana could be so different from Oklahoma.

Eleven months ago, I did a tour of very small areas in Oklahoma—Shattuck, Boise, and Gage—places you probably never heard of, with very small populations. These people are not wealthy. They are small family farmers and ranchers. In that part of Oklahoma, they normally have three sources of income. It is either small grain or cattle or oil. When all three are down, we have real devastation out there. We have a lot of family farms that are not even making enough money to break even.

I remember going out there and talking about the various agricultural programs. I talked about crop insurance. I talked about transition payments. But when the subject of estate taxes came up, they forgot about all of the other Government programs having to do with agriculture. They said: It would be the greatest thing in the world for us to be able to survive as a family institution and pass this on to the next generation.

These people live day to day. They are not wealthy people. They have to really save to buy halfway modern farm equipment. They say: The greatest single thing you could do for us would be to allow us to pass this on to the next generation.

I think that dwelling on the small percentage of total estates subject to the death tax isn't really an adequate reflection of the damage inflicted by the death tax, which is about 1.9 percent out of the approximately 2.3 million deaths each year, and 4.3 file a return; that is, 98,900. Not all of these are taxable. There is an effect in Oklahoma on small businesses and farms.

If you look at the ''1995 White House Conference on Small Business Issue Handbook''—we had several people there as part of that group who made this handbook—more than 70 percent of all the family businesses do not survive through the second generation, and fully 87 percent do not make it to the third generation.

I ask the Senator from Wyoming about the source of some of these figures which we hear, such as the loss of $40 billion in tax revenues. I don't know where they come from. I certainly question them.

The current Federal death tax accounted for only $23 billion in 1998, or a meager 1.4 percent of $1.7 trillion in total Federal receipts, a level that has remained fairly stable over the years.

I suggest there are two factors that are not being considered. One is the cost of compliance and one is the economic impact.

There are some studies which illustrate that we could actually end up increasing tax revenues by altogether eliminating the death tax.

A December 1999 study by Congress' Joint Economic Committee said:

> The compliance costs associated with the estate tax are of the same general magnitude as the tax's revenue yield, or about $23 billion. . .The estate tax raises very little, if any, net revenue for the Federal Government.

In 1998, the Heritage Foundation came up with a similar conclusion. They said:

> The cost of compliance means that the $19 billion collected in the Federal death taxes last year actually cost taxpayers $25 billion.

It is actually a net loss, according to their study.

A recent report from the Institute for Policy Innovation says:

> Reducing estate taxes would generate sizable economic gains with little revenue loss. Over the next 10 years, doing away with the estate tax would produce $3.67 in output for every $1 of static revenue loss.

Finally, Alicia Munnell, a former member of President Clinton's own Council of Economic Advisors, in a 1988 economic review, estimates that the costs of complying with estate tax laws are roughly the same magnitude as the revenue raised.

This came right out of the White House.

The other factor I am very sensitive to—because before I came to this body or to the other body down the hall, I spent 30 years in the real world—I know what it is like and how tough it is out in the real world. I wish every Member of the Senate had that kind of 30-year experience. I can remember the years I spent working long hours hiring people and expanding the economic base.

There is one statistic that is hardly ever used around here. Every 1 percent increase in economic activity produces an additional $24 billion of new revenue.

If you look at the motivation of many of us—I am not the only one in this Chamber. I am not the only one certainly in Oklahoma or in this country who spent the majority of his life working, not for himself but for the kids. Would I have worked those hours and would I have taken the time to go out and generate the jobs and revenues for this country if I had known that I could not have passed them on to my children?

I say this: For probably the last 20 years of the 30-some years I worked in the real world, I worked for my four kids and now my grandkids.

If anyone in this Chamber who was opposed to the 1993 Clinton/Gore tax increase—which some have characterized as the largest single tax increase in the history of this country, and the increase in estate taxes at that time—if they were offended by that and felt we increased taxes too much, as even the President said he did, this is your opportunity to undo some of that damage.

Finally, I consider this to be a moral issue. I think any time you have the Government saying you must spend your savings on yourself and not give to your kids, it becomes a moral issue.

I yield the floor.

The PRESIDING OFFICER. The Senator in Wyoming.

Mr. BAUCUS. Mr. President, I understood that Senator SCHUMER was going to speak, according to the list that I have.

Mr. THOMAS. Mr. President, we had 15 minutes. The Senator from Oklahoma used part of it. I intend to use the remainder. We are a little behind on time.

Mr. BAUCUS. That put us behind.

Mr. THOMAS. I will use about 5 minutes.

Mr. BAUCUS. I thank the Senator.

Mr. THOMAS. Mr. President, this is an interesting debate. It has gone on now for a substantial amount of time. We talked about all of the details. Of course, that is a proper thing to do. There are all kinds of ideas in the Senate, which is the way it is supposed to be. That is what the Senate is about.

There are many, particularly on that side of the aisle, who want to spend more—that more spending is the better thing to do. There are others who believe there should be a limit on spending—a limit on what the Federal Government does. But that is a judgment we need to make. Some apparently think that it is better to penalize spending, to make it more difficult for people to amass money. Others believe we ought to encourage savings. That is what the system is about. It causes people to be able to work and save for themselves.

There are some who believe we ought to be in the business of redistributing income. Of course, we are dealing with that all of the time. Others believe we ought to encourage enterprise and entrepreneurship. These differences, philosophical and others, are as they should be. It is the role of the Senate to do that. It is also the obligation and role of the Senate to come to closure.

The idea that we drag these things along is exasperating. We have 35 days left in this session to finish many things, including the very important appropriations bills. As we move toward the end, of course, we have an administration that is interested, as always, in shutting down the Government and blaming the Congress so they get all the appropriation things they choose.

The House adopted this bill by a vote of 279–136, which is greater than a two-thirds majority. This estate repeal, this death tax repeal, over a 10-year period, does away with the death tax. It takes death out of the formula. It would not eliminate taxes. Those properties and values passed on to someone else will be a basis, and when and if those are disposed of, there will be a tax on them. It isn't a matter of not taxing them; it takes death out of the proposition.

Interestingly enough, despite all the concerns about revenue impacts, the tax raises only 1 to 2 percent of overall Federal revenues. That is relatively small. As a matter of fact, the Joint Economic Committee indicated a probable loss of income taxes because of businesses that have to be shut down as

a result of estate taxes, thus causing a deficit.

This idea that we will eliminate taxes, that people don't pay taxes on the property, isn't true. They will be paid on the basis of whenever they are disposed of.

There are a number of things that need to be dealt with. One is that the death tax kills jobs. No question about that. Many small businesses and farms have to sell their properties. Jobs are eliminated. Those people who lose their jobs are taxed at 100 percent. I happen to be from the West where we are interested in keeping open space. Agriculture does that. Many agriculturists will have to sell their lands when they have to pay this estate tax. It will be developed. It ruins that idea.

Certainly double taxation is involved here, so there are some philosophical issues that we ought to take into account. Again, I will stay away from the details. We have had a great deal of talk about the details.

Instead of talking about the fact that we have lots of money, there are a million things for which we can spend it. We have had more difficulty holding down the size of the Federal Government, and that is more important when we have a surplus than when we have a deficit because there are a million things for which we can spend it. We ought to talk about what is the legitimate role of the Federal Government; what is the role of State and local governments.

Do we just involve ourselves in everything because there is money available? I don't think so. We have a constitutional government, a constitutional limitation. We ought to talk about that. We ought to talk about saving Social Security. We are doing that. We ought to talk about strengthening health care. We are doing that. We ought to pay down some of the debt. And then, frankly, we talk about taxes. Money ought to go back to the people who own it, who are paying in. Fairness ought to be a part of this whole equation. I hope it will be.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I am here to talk about the estate tax and what we ought to do about it. I want to make a couple of points.

First, I give the person who named it the ''death'' tax a lot of credit. I don't think this issue would have the velocity it does if it were not called that. At certain times, words somehow convey things. Sometimes they are correct; sometimes they are incorrect. I believe if ''junk'' bonds had been called high-yield bonds, we would have a different economic history. As we have learned, junk bonds play a useful role in the economy. For a while, when they were called ''junk,'' people changed their views. Words have a funny way of working. When we say death tax, people say that sounds horrible. It almost sounds like something from Star Wars.

Second, I am not one who says that this is a great thing and we must have it in place. In one particular area I think there is great resonance for eliminating this. That is, that any organic business—a farm, a small business, and frankly a large business—that would have to be broken up because of the extent of the tax should not be. A business is an ongoing organism. It employs sometimes 10 people and sometimes 10,000 people. To have to break that business up to pay any tax, to me, is counterproductive. That is why I have floated a proposal to my colleagues that eliminates this for any ongoing business that is passed down through the family and delays the payment of the tax until that business is broken up, either by the next generation or the generation after that. That makes sense to me.

If we were in a world of unlimited dollars, I would be for immediate repeal of the whole thing—not just the family part. But we are not. We have to make choices. That is what this is all about. If you had to make one argument about what the debate concerns, it concerns choice. What are our choices? It has been well documented by many of my colleagues that 98 percent of the American people right now do not pay the estate tax. It has been documented that the amount of income is going up and up and up. You have to be millionaire before you pay that tax. Soon you will have to be—whatever the word is—a ''dual'' millionaire, have at least $2 million before you pay the tax. Only 2 percent of Americans are affected. Of the 2 percent who pay, the very wealthiest, the billionaires, pay a huge proportion of that tax.

Do they resent it? I guess they do. I give them credit for having built up their businesses and earned all this money. They say they pay taxes all along; why should they pay it again. By that argument, no one should pay taxes any time. We pay a sales tax. We pay an income tax. We pay corporate taxes. We pay property taxes. They often hit the same people more than once. That is unfortunate.

Why do I say this is a choice issue? You have to compare. Since we don't have unlimited money, we have come to a consensus. We ought to buy down the debt and save Social Security which takes the majority of the now projected $4 trillion surplus. What do we do with the rest? I agree with my friend from Wyoming that tax cuts should play a part. We shouldn't have all spending proposals. I believe there ought to be a mix. Once we buy down the debt, we ought to have some tax reduction and some necessary spending proposals. Education and health care and transportation would be my priorities.

When we do tax cuts, who do you want to help? What best helps America? I am here to talk about a proposal that I think 95 percent of all Americans would prefer rather than what is being proposed here; that is, to make college tuition tax deductible, particularly for middle-income people.

College is a necessity in America these days. We know that. We know the old-time way of a job being handed down from great-grandfather to grandfather to father to son or great-grandmother to grandmother to mother to daughter is gone. We know that only people in America whose income level has actually gone up during this prosperity are those with the college education. So college is a necessity for families, for parents, for individuals. It is a necessity for the individual's well-being, but it is also a necessity for the well-being of America. Because as we move into an ideas economy, we surely will not stay the No. 1 country in the world if we do not have the best educated people. Praise God, so far we do. But that could flow away.

One of the main impediments to us staying No. 1 and continuing to have the best educated people in the world is the high cost of college tuition. If you are a family who is solidly in the middle class—let's say you make $50,000 or $60,000 or $70,000 a year—you get no help with those tuition bills. If you are poor, we give you a lot of help. We should. I love seeing ladders where poor people can walk their way up and establish themselves in America. If you are rich, you don't need it. You can afford that high college tuition. But if you are a middle-class person, if you are that hard-working majority of Americans right there in the middle—let's say the husband and wife work and let's say their total income is $65,000, $70,000; that is pretty good until the tuition bill hits; until they see they have to pay $10,000 or $15,000 or $20,000 or even $30,000 to send their child to the best possible school—you don't get any help at all.

We can. We can next week when we debate the estate tax. I ask my colleagues, where would it be better spent? To help the very wealthy in America not pay the estate tax—again, all things being equal why not—or is it better to help the middle class pay for their children's college? Why, when people struggle to save their $10, $20, $50 every week to pay for college, does Uncle Sam then take a cut when we know that this is good for America? When you send your child to college, you are not only helping that child and your family, you are helping America. You are helping us achieve the best educated labor force in the world. So why, when families struggle, and struggle they do, does Uncle Sam take a tax cut?

I make a good salary as a Senator. I have no complaints. God has been good to me and my family. But we have two daughters, beautiful daughters, the love of our lives, 15 and 11. We are up late at night figuring out how we are going to pay for their college education.

There are millions of American families whose children do not go to college because it is expensive, too expensive.

There are millions more—I was in Niagara Falls this Monday, 2 days ago. I heard of a family, the Maskas, with seven children. They are trying to send each one to college. A few of them are in college at the same time. But do you know what they had to do? They had to tell one of their young children, even though he was doing very well in school and had good boards, that he had to go to a nearby junior college because they couldn't afford the college he deserved to get into.

So it is not only people who can't get into college; it is people who scale down the college they choose because they cannot afford the more expensive schools. Tuition has gone up more than any part of our budget. The cost of health care, from 1980 to 1995—which everyone talks about having a huge amount of increase—went up 175 percent; 250 percent is tuition.

The bottom line to all of us in this Chamber is simple. It is not whether we are for or against removing the estate tax in the abstract. It is a choice—choice—choice—choice: Do we take these hundreds of billions of dollars, which I believe I agree with my colleague from Wyoming should be sent back to the people—and send them to the very wealthiest people or do we give some back to the middle class to help educate their children and get them the best college education possible?

I daresay the vast majority of voters in every one of the 50 States believes it is better to vote for the proposal that I will make on the estate tax bill. I have done it jointly. I do not know if we will be offering it together, but the proposal was put together by myself, the Senator from Maine, Ms. SNOWE, the Senator from Indiana, Mr. BAYH, and the Senator from Oregon, Mr. SMITH. It is bipartisan. I urge my colleagues next week, when the estate tax bill comes to be debated, if it does, to decide the choice. Do we return the money to the wealthiest 2 percent, especially those who do not have ongoing farms or businesses—because we are going to deal with them—or do we send it to the millions of middle-class Americans who are up late at night, worried about whether they can afford to send their children to school, and who right now get virtually no help from Washington?

Mr. President, I yield my remaining time to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. So there is some order here, we wanted to go back and forth. It is now the Republicans' turn. It is my understanding Senator DOMENICI will speak. Following that, so colleagues on my side of the aisle will know, Senator HARKIN will have 15 minutes. Then the last speaker we will have is Senator LAUTENBERG and he will have whatever time we have remaining, probably about 13 minutes.

Mr. THOMAS. As I understand it, I agree: Senator DOMENICI, then Senator HARKIN, and then we have Senator HUTCHISON.

Mr. REID. Mr. President, I ask from the time of the Democrats, the minority, that Senator HARKIN be given 15 minutes and Senator LAUTENBERG be given the remaining time that we have. I ask that in the form of a unanimous consent request.

Mr. THOMAS. I have no objection.

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

Mr. THOMAS. I yield 15 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think almost everyone has heard the name Dr. Milton Friedman. I would like to start my brief remarks by quoting this very distinguished Nobel prize winning economist, who notes:

> The estate tax sends a bad message to savers, to wit: that it is OK to spend your money on wine, women and song, but don't try to save it for your kids. The moral absurdity of the tax is surpassed only by its economic irrationality.

You could stop there and say no more, and ask, do we really have a tax on the books of the United States that will lead Americans to waste their money rather than save it to leave to their children? And then to be add the economically irrational absurdity. One could just read that indictment and conclude that it is a good source of information, a Nobel winner in economics, a splendid proponent of entrepreneurial capitalism and what makes it work and what detracts from its working. Dr. Friedman's quote could be the sum and total of my speech. I could stop there.

But let me proceed on with a couple of facts. These are real. It does not raise very much money. It is a big trap for the unwary. It is viewed as the most confiscatory tax, with its rates reaching 55 percent, and if coupled with the generation-skipping tax, the practical effect of the tax is that it can grab as much as 85 cents on the dollar. I do not believe we in America ought to have any tax on the books that can take as much as 85 percent of any dollar, earned or owned, by any American. So that is the debate.

It hits a diversity of people. Two groups most adversely affected are small businesses and family farms, which are absolutely frightened of the concept that at a point in time when they most need their managing partner, when the business or farm needs its key person the most, that key person has died, by definition, and up to 55 percent straight on—without generation-skipping trusts protecting children—55 percent of the estate would go to the Government.

There are all kinds of excuses and explanations. It is payable over time. Yes, some would say: Thank you, Federal Government, as you take 55 percent of everything we saved and earned and built up; it is generous that you let us pay that 55 percent over time.

I do not know if that means anything. It probably means the Government got to the point where it was absolutely absurd trying to make them pay that 55 percent all at once because the horror stories were so rampant that Congress would say: What are we up to? After listening to that for a while, they made it payable on the installment plan.

Again, my own sense of what this does and what my constituents have told me is consistent with Dr. Milton Friedman: The Estate Tax penalizes savers. Someone who is getting old may have accumulated an estate perhaps made up of a nice house, a nice summer cabin, and may own two filling stations. Try that on as to whether they are a real rich person: A really nice house, a summer cabin, and two filling stations of the modern type today. They are going to pay a huge amount on the appraised value of that estate, and let's add to it that they saved and have $50,000 in the bank. All of these assets were acquired with money that had already been taxed as income under the Federal income tax.

It is a double tax; I do not think anybody would doubt that. Nobody would come to the floor and say it is not. Assets are purchased with after-tax dollars and then taxed again under the estate tax.

The approach in the bill before us is a very fair approach. There are some who think the bill allows rich people to avoid paying taxes. It does not. The change is a timing change. Death would not be the taxable event. Instead, a family business or farm or other asset inherited would be taxed when it is sold, but it is not a giveaway, as some allege, because the basis for calculating the tax at the time of the sale would be the same as if the original owner had sold it. It would be taxed on a carryover basis.

That means, to make it very simple, if your entire assets are three warehouses when death occurs, the three warehouses have a value at the date of death, but they are not taxed then. When one or two or three of those warehouses are sold by the inheritor, they pay a capital gains tax using the original value, which might have been the value 10 or 15 years ago when the asset was first acquired.

If they make a very large amount of money when they sell it, that is taxed as capital gains. It is changing the taxable event from the date of death that triggers the tax to the date of an actual sale by one who inherits it. That is the event.

It seems to me when everybody has that understood—some of the people who are saying this is not a fair approach, and some Americans who have been listening might say, Is this really fair—they will come down on the side that this is a much fairer approach than taxing on the value on the date of death.

I compliment the chairman of the Finance Committee for his fine work. He is correct that this is one tax that should be abolished. This is a good and

fair tax policy, and it moves us toward tax simplification, which, in and of itself, is commendable and something we are always trying to do with our Tax Code but succeed rarely. We talk much and succeed rarely.

NEW MEXICO WATER RIGHTS

Mr. DOMENICI. Mr. President, I want to talk about some other things that should be abolished. Last week, the Solicitor of the Department of the Interior issued a two-paragraph memorandum that he calls a legal opinion. In that memo opinion, he attempts, in one fell swoop, to overrule New Mexico water law and the rights that are established under New Mexico water law which are called the rights of prior appropriation, the cornerstone of water rights, and the right to use water and how to allocate water when water is stored.

In that same opinion, as I view it, he has abolished our water law and nationalized the Middle Rio Grande Conservancy District, one of the largest irrigation districts—if anyone has flown over Albuquerque, that big green belt is the Rio Grande, and anything you can see in Albuquerque on that part of the river is part of the conservancy district. That conservancy district is not, as the Solicitor said, ''an agent of the Federal Government.'' He is going to have plenty of time to prove that for he is going to be challenged in every court wherever we can, and perhaps even in the Congress, on whether that is an appropriate conclusion.

Let me tell you about the creation of this Middle Rio Grande Conservancy District and its mission.

First, it was created by the State of New Mexico by our State legislature in 1923. It was the Conservancy Act of New Mexico. It was not created by the Federal Government. It was created by New Mexico. It owes the Federal Government no money. It paid off its last rehab and construction loan in 1999.

Solicitors at the Department of Interior or any other lawyers just do not walk around nationalizing assets. In some countries, dictators do, but certainly it is not the way we do things in America.

The partial effect of this memo is to overturn New Mexico and western water law. In our State, water is a precious commodity. I wish we had more of it so it would not be so precious, but it is precious and we have too little of it.

In New Mexico, we have endangered species. We have more than one, but one lives in the lower reaches of the Middle Rio Grande River. We have a silvery minnow. And in the river right over the mountains is a blunt-nosed shiner. I wish we had fewer endangered species and more water—that would be very good—but such is not what has been dealt New Mexico.

We have a water rights system, and it essentially is a seniority system. This Solicitor ignores that basic premise. Adding insult to injury, the matter was already before our Federal courts, and on June 19, 2000, Interior Solicitor Leshy issued a brief opinion stating that the Bureau of Reclamation, the entity that manages some of the water, has title to the water in this Middle Rio Grande Conservancy District. How he will ever make that stand up I do not know, but I hope there are judges left who will get to the heart of this issue and determine that is not a policy nor is it fact.

In October of 1999, the Bureau of Reclamation biological assessment stated the bureau did not have a controlling property interest in this Middle Rio Grande conservancy facility.

On Thursday, the Albuquerque Bureau of Reclamation area manager sent a letter to the Middle Rio Grande Conservancy District that they operate as agent of the United States and should operate its ''transferred works'' allow 300 cfs of water to bypass San Acacia Dam on the lower river for the silvery minnow.

This places all the burden on these farmers and none on the rest of the users, which is inconsistent with New Mexico law again. This places all the burden on this one group.

The Middle Rio Grande Conservancy District's position is that providing water for the fish should not all be borne by their water users, i.e. the farmers. The burden should be shared. There are many big water rights holders including the city of Albuquerque. The Bureau of Reclamation countered that it has title to the Conservancy District's water so it can claim it, but that it does not have authority to take the Albuquerque city's water because it is other people's water.

New Mexico says that the Federal Government must comply with State law and get a permit to change irrigation water to water for fish habitat. It further admonished that the Federal Government has no authority to interfere with the state's interstate delivery obligations. I believe the federal government's strategy is to divide the parties, as well as to avoid a hearing on the merits of the biological need for wet water for the fish.

To conclude, if we are ever to have cooperation to preserve this endangered species, the silvery minnow, this is exactly the way not to do it. There was a burgeoning working together, cooperative group. I was part of it. Many environmental groups were part of it.

We were looking for a way to collectively and collaboratively create some habit activities, and then construct some habitats for this minnow, and to do it with the full assistance of the Federal Government. Along comes this Leshy opinion and out the window goes all that. Now it is full speed ahead with litigation on all sides, and people working in the Congress to see what we can do to be fair.

If I have not used all my time, I yield whatever I have to the distinguished floor manager, the Senator from Wyoming. I thank the Senate for the time given me this morning.

The PRESIDING OFFICER. The Senator from Iowa is recognized for up to 15 minutes.

THE 10TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

Mr. HARKIN. Mr. President, it seems as if we can take all kinds of time on the Senate floor—hours, days—talking about how we are going to benefit the richest people in America, many of whom inherited their wealth. After all, that is what estates are; they are wealth that is passed on from one generation to another. I do not have anything against that, but it seems to me we spend an undue amount of time talking about how we are going to help the richest, most well-off people in our country, who, by and large, can pretty well take care of themselves.

So I am going to diverge a little bit because I want to talk about a group of individuals in this country who do not fall into that Fortune 500 or 400 or whatever it is—the Forbes 400—people who have the big estates. I want to talk about a group of people who have been discriminated against in our society for far too long and with whom we in Congress had made a pact 10 years ago and President George Bush signed into law the Americans with Disabilities Act to say that we, as a nation, are no longer going to tolerate discrimination against any individual in this country because of his or her disability.

July 26—a couple weeks from now—will mark the 10th anniversary of the signing of the Americans with Disabilities Act. As those of us who worked so hard for the ADA predicted, the act has taken its place among the great civil rights laws in our history. On July 26, 1990, we, as a country, committed ourselves to the principle that a disability in no way diminishes a person's right to participate in the cultural, economic, educational, political, and social mainstream.

By eliminating barriers everywhere—from education to health care, from streets to public transportation, from parks to shopping malls, and from courthouses to Congress—the ADA has opened up new worlds to people with disabilities. People with disabilities are participating more and more in their communities, living fuller lives as students, coworkers, taxpayers, consumers, voters, and neighbors.

As part of the anniversary celebration—the 10th anniversary of the signing of the Americans with Disabilities Act—I recently announced the ''A Day in the Life of the ADA'' campaign. I am asking people across the country to send stories about how their lives are different because of the Americans with Disabilities Act. We are going to be using these stories to celebrate our accomplishments and to learn more about what we still must do to give all Americans an equal opportunity to live out the American dream of independence. We already have received many

wonderful stories that show how the ADA is changing the face of America. I look forward to receiving many more.

I ask the people to either send these stories by e-mail to adastories@harkin.senate.gov or send them to ''A Day in the Life of the ADA,'' c/o Senator TOM HARKIN, 731 Hart Senate Office Building, Washington, DC, 20510.

We want to tell these great stories in the celebration that will take place on July 26. There will be ceremonies at the White House. We will take time here in the Congress to talk more about the Americans with Disabilities Act, what it is, what it was meant to do, and what it has accomplished.

The ''A Day in the Life of the ADA'' campaign will create a historical record of the profound impact the ADA has had on the daily life of people with disabilities. I will share with you a couple stories I have already received.

I spoke with a woman in Des Moines, IA, who told me that not only had the ADA helped her son, who has a disability, get a job working at a restaurant, but that because of the fact he has that job he has become a role model for other kids with disabilities, to show them that they, too, can get jobs and work.

I recently met and spoke with Theresa Uchytil from Urbandale, IA. Theresa is this year's Miss Iowa and hopefully will be next year's Miss America. She was born without a left hand. She told me that the ADA has given her and other people with disabilities confidence to pursue their own dreams.

I received a letter from a woman in Waukegan, IL, who is blind, who wrote:

> The ADA has allowed me to receive my bank statements in braille. This might seem like a small victory to some. Obviously such people have never been denied the ability to read something so personal as a bank statement.

I heard from a man in Greenbelt, MD, just outside Washington, DC, who is deaf. I will quote him. He said:

> When I turn on the TV in the morning, I can watch captions and public service announcements because of the ADA. When I go to work and make phone calls, I use the telecommunication relay services enacted by the ADA. In the afternoon I go to the doctor's office and am able to communicate with my doctor because the ADA has required the presence of a sign language interpreter. After the doctor's office, I decide to go shopping and am able to find a TTY (as required by the ADA) in the mall to call my family and let them know that I will be a bit late in arriving home. . . . In short, the ADA has had a major impact on almost every facet of my life.

I heard from a man in Berkeley, CA, who has cerebral palsy and uses a wheelchair. He said:

> The ADA has made me able to live independently. I can now get into most every restaurant, movie theater or public place. The ADA has put me on a level playing ground with the rest of society. I realize that if I had been born any other time before I was, I would not be able to lead the life I do. I am going back to school in the fall. I hope to educate people by either being a teacher or a lawyer. I do not think that this would have been possible without the ADA.

These are only a few of the many stories we are receiving. I encourage others to send in their stories, again, to create a historical record of the profound impact the ADA has had on the daily lives of people with disabilities, their families and friends, and every American. I encourage everyone to share their stories, their family stories, about how the ADA has improved their lives.

For example, I would like to have stories about how the ADA has eliminated segregation in education and health care and the workplace, how the ADA has increased the accessibility of schools and colleges and government and the workplace for people with disabilities. I would like to hear stories about how the ADA has made it possible for people with and without disabilities to enjoy the smaller things that many of us take for granted—going out to a birthday party dinner as a family, going to a movie with a friend, a loved one, or a family member, going to a museum with friends on a Sunday afternoon, or just plain going out to the grocery store to shop for groceries.

The ADA has improved people's lives. I need stories that show how the ADA has improved people's lives in any other way, maybe some I have not even thought about.

We will share these stories to show how the ADA has benefited people with disabilities and how it has benefited all of American society—by integrating and pulling people from all walks of life into every facet of our lives in America: in education, in the workplace, travel and transportation, and government services.

Again, during this time of debate on the estate tax bill, and what we are going to do to help some of the richest people in America, I want to take this time to let people know there are a lot of Americans out there who, because of what we did 10 years ago in passing the Americans with Disabilities Act, are leading fuller, richer, more independent lives.

We celebrate that this year on the 10th anniversary on July 26. I ask everyone to help build this record of the ADA successes, again, by sending their stories either by e-mail, at adastories@harkin.senate.gov, or ''A Day in the Life of the ADA,'' c/o Senator TOM HARKIN, 731 Hart Senate Office Building, Washington, D.C. 20510.

By doing this, we will build a historical record. We will show how the ADA has indeed made us a better country, how the ADA has made it possible for people from all walks of life, regardless of their disability, to work, to travel, to enjoy their families and friends. This is what we ought to be talking about in the Senate. This is what America is about, not about helping the few at the top who already have too much but by helping those who have been discriminated against for so many years, shoved into nursing homes, into dark corners, discriminated against in every aspect of their lives, people with disabilities, and how we as a society came together 10 years ago, Republicans and Democrats, in a bipartisan fashion to say we are going to end this kind of discrimination once and for all.

That was one of the great bipartisan victories I have seen in my 24 years in the Congress. These are the kinds of things we ought to be debating and doing.

I take this time to encourage these stories to be sent in, so when July 26 rolls around and we celebrate the 10th anniversary of the Americans with Disabilities Act, we will have personal stories about how it has helped people from all over the country.

Mr. BOND. Mr. President, I rise today in strong support of the motion to proceed to H.R. 8, the Death Tax Elimination Act of 2000. While this legislation has long been one of my priorities as chairman of the Senate Committee on Small Business, it is of critical concern to a sector of the United States economy that employs more than 27.5 million people, generates over $3.6 million in sales, and has grown by 103 percent in the past four years. That sector is women-owned businesses.

As one of the fastest growing segments of the economy, women-owned small businesses are essential to America's future prosperity. In recognition of this growth and their contribution to our economic life, I led a bipartisan group of policy makers last month to convene the National Women's Small Business Summit, New Leaders for a New Century, in Kansas City, Missouri. With the support of Senators KERRY, FEINSTEIN, HUTCHISON, SNOWE, and LANDRIEU, we set out, through this summit, to listen to women-owned small-business owners. Our goal was to elicit their views, concerns, and policy recommendations on the obstacles that women entrepreneurs face every day as they strive to run successful businesses.

One issue that we heard loud and clear was that the ''death tax'' has to go. In fact, repeal of the estate tax was the number one tax priority identified by the summit participants. So it is particularly timely that the Senate is considering this crucial legislation that will eliminate a tax that discourages hard work and innovation rather than encouraging and rewarding it.

Mr. President, I believe we can now agree on both sides of the aisle that the estate tax is highly detrimental to small and family-owned businesses and farms in this country. Indeed, according to recent findings, the estates of self-employed Americans are four times more likely to be subject to the estate tax than Americans who work for someone else. In addition, because owners of small businesses do not know when they will owe the estate tax or, consequently, how much they will owe, the tax exacts excessively high compliance costs.

For example a June 1999 survey by the Center for the Study of Taxation found that eight of ten family-owned business reported taking steps, such as estate planning, to minimize the effect of this tax. Moreover, the Upstate New York survey revealed that the average spending on estate planning was almost $125,000 per business. Similarly, a survey by the National Association of Women Business owners found that the estate tax imposed almost $60,000 in estate-tax-related costs on women business owners.

These costs translate into thousands of dollars of valuable capital that women-owned businesses are pouring down the drain simply to ensure that the estate tax does not become the grim reaper for their businesses. And if anyone thinks that wasting these funds is not important, they should note carefully that access to capital was the second most pressing issue area identified at the National Women's Small Business Summit.

Mr. President, compliance costs pertaining to the death tax also directly affect the availability of jobs. In the Upstate New York survey, an estimated 14 jobs per business have been lost because of the cost of Federal estate-tax planning to those same businesses. A study by Douglas Holtz-Eakin found that the estate tax caused an annual 3 percent reduction in desired hiring by sole proprietors. A 1995 Gallup poll also found that three out of five businesses would add more jobs over the coming year if the estate tax were eliminated.

If nothing else, this legislation boils down to one simple issue—jobs! Small businesses are the top job creator in this country, and the death tax is sending those jobs to the grave. Existing businesses are not hiring as many workers because of estate-planning costs, and when the owner dies, this tax can cause the business to be liquidated just to pay the government. And when those doors close, they close hard and fast on the jobs that the business provided in our local communities. That is a reality we simply cannot ignore or allow to be concealed by erroneous claims that repealing the death tax is just a tax cut for ''the rich.''

Mr. President, the cost of the estate tax is high not only for small business owners, but for those seeking employment and for the overall economy. It is time that those costs are eliminated by repealing the estate tax once and for all. I urge my colleagues to support the motion to proceed and the underlying legislation for the continued success of America's women-owned businesses and the jobs they create.

Mr. SMITH of New Hampshire. Mr. President, the estate tax better known as the ''death tax'' is an onerous tax that should be eliminated. A recent poll revealed that 77 percent of the voters believe that the tax is unfair.

This tax is slowly destroying family businesses by slowing growth. And it's unfair that families who have worked their entire lives to build a successful family farm or business should be penalized.

Individuals who look forward to leaving something behind for their children should not be punished by confiscatory, anti-family taxes.

In fact, after years or even generations, children are often forced to sell the family farm or business just to pay the tax. This is both unfair and unconscionable.

However, not only is it the children who must suffer the loss of the family business, but the workers and their children who suffer when they lose their job because the business they've been working at is liquidated to pay the death tax.

But it doesn't stop there. The local community, particularly small towns suffers as well because their customers can no longer afford to buy their products after having lost their job.

The estate tax is outdated, it raises little money, and it imposes a large cost on the economy.

In 1999 the estate tax generated about $24 billion. However, it is estimated that administrative costs to enforce the tax are over $36 billion.

A recent analysis by the Heritage Foundation, found that the U.S. economy would average nearly $11 billion per year in additional output.

The National Association of Manufacturers states that 40 percent of its members had spent more than $100,000 on attorney and consultant fees related to death tax planning. In addition 3 out of 5 members pay at least $25,000 a year to prepare for the death tax.

A 1998 study by the Joint Economic Committee found that if the death tax was repealed, as many as 240,000 jobs would be created and Americans would have an additional $24.4 billion in disposable personal income.

A February 2000 study by the National Assoc. of Women found that the death tax has a negative impact on female entrepreneurs.

According to the study, business owners found that female entrepreneurs spent on average nearly $60,000 on death-tax planning.

Some have argued that it is the rich who benefit from eliminating this tax. Mr. President, the wealthy and powerful, including many in this body, who can afford high priced legal and financial advise to avoid the taxes.

Therefore, who's left holding the bag but the middle-class.

This tax is unfair and it is anti-family. We must repeal this tax now. Mr. President, I urge passage of this legislation.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, we have to conclude by 11:30. If Senator LAUTENBERG is prepared to take his time now, then we will pick up the remainder with the last speaker.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, may I ask what the parliamentary situation is regarding the time allocation?

The PRESIDING OFFICER. The Senator was allotted the remainder of the Democratic time, which is 15 minutes.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we are going to take a couple of minutes to develop our opposition comments regarding the elimination of the inheritance tax. The repeal of it is an interesting prospect but not one that has much merit. My strong opposition to the ultimate repeal of the inheritance tax will be obvious with my comments.

This legislation would provide a huge windfall to a handful of very wealthy individuals at the direct expense of ordinary, hard-working Americans.

Without meaning to brag, I had a successful business operation before I came here. I was chairman and CEO of a very large company with over 16,000 employees, a company that I began with two other fellows from my home city of Paterson, NJ—a mill town with a great industrial past, at the time I was growing up there, but with a dismal current situation—the three of us, by dint of hard work. My parents and the parents of the two brothers with whom I was associated were all immigrants. My parents were brought as infants by my grandparents, and my colleagues' parents came at a later date and time in their lives. We were poor.

I just retraced these roots with a newspaper because I am in the process of ending my Senate career come January 2001. We were very successful. That company we started without anything today employs 33,000 people. It is one of America's leading examples of what happens when there is hard work and initiative and there is creativity in this great country of ours.

I am one of those people who will fit in the 2 percent who are going to be principally affected by the reduction and ultimate elimination of the inheritance tax. I have four children. I am a proud grandfather. I have seven grandchildren, the oldest of whom is 6.

When I am called upon to ascend to a different place, there is going to be an estate. My children have never said to me: Dad, you have to get rid of the inheritance tax, or, Dad, make sure we are well taken care of. They have had a decent life.

I stand here to say, yes, my estate is going to pay a lot of tax when I go, a lot of tax. It is OK; it is all right with me. It has to be all right with my children.

Talking about the three of us who ran the company ADP, we succeeded in this country not just because we were willing to work hard and we had some smarts and we did the right thing. We were made successful because of the resources available in this country. We were made successful because lots of people who struggled to make a living and support their families did the work

they had to. We were made successful because this great land in which we live provided the opportunity.

We could be just as clever and just as hard working in lots of other places around the world, but we never could have accumulated the resources we had. Neither could Mr. Gates or the other people now almost legendary multibillionaires. They couldn't have done it without lots of little people, lots of people doing the scut work, doing the hard labor, or using their brains that were developed by investments through our society, through this Government, helping to develop schools that would cultivate the thinking and the creativity that went into making their contribution. A lot of them, as was true in my own company, got rewarded, but they were not in the $20 million estate group or even higher. They weren't in the number 374 with an average amount of assets of $52 million.

They are not in that group. The group isn't very large, but it is very powerful. This group is very powerful. When they speak, everybody here listens—just about. They hear from the leaders of these companies. They hear from the people who bought the boats, the private yachts, and the airplanes. Now there is almost a contest within our society—and I know some of these folks—about who can build the biggest yacht. They are up to over 300 feet now. That is the largest private yacht sailing the seas. It has a crew of almost 50 people. I don't know what is going to happen to that man's estate, but I don't think he deserves to have that estate protected without acknowledging the fact that he owes something back to this society. He has an obligation—his estate has an obligation to make sure something remains so there can be other entrepreneurs, business leaders, scientists, and physicians created, to make sure this country is able to carry on.

Part of what is in the basic ethic of this Nation of ours—and it goes back to its founding days—is hard work; do your share. I used to hear in my household from my grandmother that you had to ''leave something over for those who need help.'' You could not just take it and walk away. What is going to happen to that work ethic?

Bill Gates is worth, they say, somewhere around $100 billion. I don't know him personally, but I hear he is a real good guy, very philanthropic. He gives away a lot of money to very noble causes. But if he chose to say, look, my estate will pay the 55-percent tax, that will leave, by my calculation, $40 billion or $60 billion to be divided among his children. I don't hold him out to be evil or the devil. I use the arithmetic description to try to make the point; it is to make the point that we ought to be very careful.

None of us like taxes. I don't like them. But I know they are necessary. If you want to belong to ''Country Club America,'' you have to pay the dues—especially if you succeed, as only you can in this country of ours because of the resources that are here. Some of them are natural resources. We have a wonderful location and the ability to ship goods from our oceans. This is one incredible place. Boy, are you lucky to belong to ''Country Club America.'' But I think it is necessary to pay your dues. I think it is necessary for me to pay dues. I think it is necessary for my estate to pay dues. My estate will be assessed at the high rate. It is not going to leave my kids poverty stricken, nor is it going to leave the 346 wealthiest people who will leave estates at $52 million poverty stricken.

I don't even think the heirs to estates of from $10 million to $20 million—there are 688 of them and they will pay $3.7 million in taxes—will be impoverished. We are looking at estates of from $5 million to $10 million. There are roughly 1,800 of them. Those estate taxes will be $1.9 million. That leaves $4 million to the beneficiaries. That doesn't sound like impoverishment.

Look at what the picture is. On this chart, we have the 374 largest estates. If the Republican tax plan goes through, they will save $11.8 million each. That is just 374 estates. And roughly 300,000 estates will pay zero estate tax.

Is that fair? That is the question. Is it fair that we take such good care of people who have a $50 million estate, on average? And some are substantially larger. Where is the conscience here? Roughly, 2 percent of the people in the country have estates that pay any tax at all. Out of the 2.3 million, only 2 percent have any inheritance tax at all. Most people don't leave estates that hit inheritance tax levels. They don't pay taxes. By the way, all through this successful person's lifetime—and some are successful because they pick the right father—those estates pay a very small portion of the inheritance tax revenues. But we want to reduce the portion that they do.

All of the rest of the people in America, the people who work hard and try to provide for their kids, the people who try to educate their children so they can go on and succeed in their own right, they don't pay any estate tax because before you must pay estate taxes, you have quite a hurdle to get over.

Also, for the benefit of those considering this, let's remember that if it is a husband and a wife in a family, that family can give $20,000 a year to each child. If they have three kids, they can give $60,000 to those kids. The wealthy people we are talking about can do that. They can give $60,000 to those children, and if it is a 20-year lifetime, you are talking about $1.2 million that you can give away absolutely tax free. You can do that to lots of people. They don't have to be your kids. They can be your friends, your neighbors, or distant relatives. You can give a lot of money away in a lifetime. Then you get a $1.3 million exemption before you start paying any tax at all. So we are looking at a tax that is not fair.

This Nation has its taxes structured on the basis of graduated incomes, and you pay higher taxes. We have had tax reductions. Now, capital gains is 20 percent. The maximum rate we have on income is 39 percent. I am always willing to look at ways to reduce that.

Frankly, I think maybe one of the things we ought to consider—and I haven't run the costs on it—is to say that for people over 65 we even start reducing that 20 percent. Maybe by the time somebody is 70, there would be no capital gains tax, and maybe that will stimulate their investments into the economy and charities—the amount of money given philanthropically—because there is a pebble in the shoe, and also a generosity of spirit. Some people say they would rather give it to a university, a hospital, or a library, than just leave it out there to be taxed. That is a good idea. I know very few people who have these big fortunes who don't do a lot philanthropically. I also know some people who are in the multibillions of dollars worth of estates who have said they are not going to leave anything to their kids, that they will have given them their head start in a lifetime.

I see that the Chair is poised to strike the gavel. I thank you for the time I have had. I hope we are mindful of the public reaction. Taking care of the rich is not an obligation in which we have to specialize.

Mr. THOMAS. Mr. President, on this side, I believe we have 17 minutes remaining.

The PRESIDING OFFICER (Mr. HUTCHINSON). There are 16 minutes 35 seconds remaining.

Mr. THOMAS. Mr. President, I yield the remaining time to both Senators from Texas.

The PRESIDING OFFICER. The Senator from Texas, Mrs. HUTCHISON, is recognized.

Mrs. HUTCHISON. Mr. President, I rise today to speak in favor of this bill. There is no question that what the Senator from New Jersey has just said has some resonance when you talk about paying dues to society. But this is not money that has never been taxed before. This is money that was taxed when it was earned. It is money that was taxed when it was invested. It has been taxed and taxed and taxed. Who could say that an average family who now pays 40 percent of their income in taxes is not giving back enough to society?

On top of all of the taxes they paid on this money, now we are saying we want to change the American dream, which has always been to come to our country—come to America where you have the freedom to work as hard as you want to work, do as well as you want to do, and give your kids a better chance than you have. That is what the American dream has always been. Those who are against this tax are saying: No, no. That is not the American

dream anymore. What we are saying in America is come to America and you can be this successful, and as long as you don't go beyond this, it is OK.

We should not put boundaries on success in America. That built our country. Hard work of people who are judged on what they are and not on who their grandparents were is what has built this country.

The estate tax takes away part of the incentive for people who work so hard to give their kids a better chance than they had.

It hurts small business. Seventy percent of all family-owned businesses do not survive through the second generation, and 87 percent don't make it to the third generation. That affects the small business itself, but it affects a lot of people who have jobs in those small businesses. It is the little people who are getting hurt because they don't have jobs anymore.

I have read stories where the main employer in a small town had a family-owned business and could not make it because they had to sell the assets of the business in order to pay inheritance taxes.

Among a survey of black-owned enterprises, nearly one-third say their heirs will have to sell the businesses to pay the death tax, and more than 80 percent report they do not have sufficient assets to pay the death tax. In fact, the president and CEO of the National Black Chamber of Commerce has written a letter in support of this bill because he says the total net worth of African Americans is only 1.2 percent versus 14 percent of the population.

The CEO of the National Black Chamber of Commerce supports the bill before us today. He said African Americans have been stuck at 1.2 percent of the total net worth of this country since the end of the Civil War in 1865, and that getting rid of the death tax will start to create a new legacy and begin a cycle of wealth building for blacks in this country.

The U.S. Hispanic Chamber of Commerce supports the bill before us today. They write: When one family loses its business due to the unfair estate tax, which really is a death tax, the face of an entire community changes. Employers become ex-employers. The economy suffers and a thriving self-supporting group of individuals vanish.

This is a gut issue for small businesses in our country.

The reason is that the assets of a small business are not readily sellable. The assets of a farm and a ranch are oftentimes valued at much more than their actual productivity. So if they have to have a valuation that puts them in the category of needing to pay an estate tax, they have no choice; they have to sell the land in order to pay that tax.

It is not right. It is not perpetuating the American dream.

Let me talk about conservation and the effect of the death tax on conservation. This is an article published in the Dallas Morning News, written by David Langford of San Antonio, the executive vice president of the Texas Wildlife Association. He says it so much better than I ever could.

Since 1851, my family has worked the land in the Texas Hill Country. Through the ups and downs of the past 148 years, we have run flour mills, farmed, ranched and offered hunting and fishing opportunities.

Our land also serves as a habitat for many species of birds, including two endangered migratory songbirds—the golden-cheeked warbler and the black-capped vireo. As a result, my family and I consider ourselves stewards of precious natural resources.

But as is the case for much of the wildlife habitat in this country, the estate tax threatens to tear it apart. The need to pay large estate tax bills often forces families to sell or develop environmentally sensitive land. The estate tax is the No. 1 destroyer of wildlife habitat in this country.

Although we have managed to hold our land together, it hasn't been easy. Before my mother died in 1993, we did everything we could to protect our family's land. Like millions of other family businesses, we paid accountants, tax attorneys and estate planners to help manage our assets in ways to avoid the tax, but it still came to this.

In order to pay the estate taxes and keep the land together when my mother died, we had to sell almost everything she owned, including her home. My wife and I had to sell nearly everything we owned, including our home, and move into a two-bedroom condominium. We also had to borrow money for 35 years from the Federal Land Bank.

Because the value of the land has increased since 1993, if we were killed in a car accident tomorrow, my children would owe more inheritance taxes than the amount I originally had to borrow to pay mine. But that isn't the end of the story. Not only would they pay more taxes than me, but they still would inherit my 35-year note that they would have to continue to pay.

Could my children then keep the land? The short answer is no. It probably would become a subdivision.

Mr. President, these are people whom I hear the other side keep calling ''rich,'' needing to pay their debt to society. These are people who care so much about the land that has been in their families since 1851 that they now live in a two-bedroom condominium to keep that land together.

That is not the American way. That is not right in this country. It is not good for the environment. It is not good for conservation. It is not good for small businesses that create jobs. And it doesn't produce 1 percent of the revenue of this country.

It sends a powerful message that you can only succeed in America this much, and if you have this much, we will take part of what you have worked so hard to earn, what your parents and grandparents may have worked so hard to give you, and we are going to say, I'm sorry, you've done too much.

Mr. President, that is not the American dream. I agree with the U.S. Hispanic Chamber of Commerce; I agree with the U.S. Black Chamber of Commerce. They want the opportunity for their members to create a stability through the generations for their families. I stand with the people who want to keep their land together, to keep a tradition in their families. That is the American way. I hope we will send this bill to the President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, this has been a great debate. I count myself privileged to have the opportunity to close it.

I am proud of my colleague from Texas. If Members were not moved by the story the Senator portrayed, of people being forced to sacrifice their homes to keep their family farm together, then they don't have a heart and they don't care about the values that at least I consider to be the underpinnings of America.

No issue better defines the difference between the two great political parties than this issue. I am prepared to have every election in American history determined on this issue and this issue alone. The issue is very simple. People work their whole lives, they pay taxes on every dollar they earn; they scrimp, they save, they sacrifice, and they build up a business or they build up a family farm, and, when they die, they pass that business or that farm on to their children. In fact, that is the reason many people work and sacrifice.

My mama didn't graduate from high school, but she had a dream I was going to college. She sacrificed her whole life to achieve that dream. We don't believe that, when people have worked a lifetime to build up a family farm, or family business, or family assets, that their children ought to have to sell off their parents' life's work to give the Government up to 55 cents out of every dollar of everything they have accumulated in their lives. We think it is fundamentally wrong. We think it is un-American. And we believe it ought to end.

When we cut through all the political rhetoric of everything our Democrat colleagues have said in this debate, their reasons for opposing repeal of the death tax come down to two arguments. The first argument is, force people to sell off that family business, force them to sell that family farm, force them to sell off the lifework of their parents because Government can spend the money better.

We reject that. We believe that is a clear indication that somehow the opponents of repeal don't understand what America is really about. Those of us who favor repeal of the death tax don't believe Government can spend that money better. And we don't think it is right to take it from the people who built those assets up.

The second argument our Democrat colleagues make in opposition to repealing the death tax is that repeal would help rich people. When we reduce this argument down, it is an argument that the Government ought to level families, that somehow if a person were born in a family that owned a family business or family farm, that is not fair—the fact that your parents sacrificed and worked and scrimped to

build it, it is still not fair for you have it, and at least part of it ought to be taken away from you.

Let me explain why I reject this logic. First of all, the only thing I have ever been bequeathed or expect to be bequeathed was, when my grandmama's brother, my great uncle Bill, died, he left me a cardboard suitcase full of sports clippings. Had it been baseball cards, I would be a rich man today.

The family of our agriculture commissioner in Texas, a lady named Susan Combs, owned a ranch that had been in the family for four generations. When her father died, she was forced to sell off part of that ranch to pay death taxes. Now our Democrat colleagues would have us believe that is good because that levels society.

How did it help me? How did making Susan Combs sell off ranchland that her family had owned for four generations help me because my family didn't own a ranch or didn't own a business? I cannot see how I was helped, or how my children are helped. How does tearing down one family help build up another? How does destroying the life dream of one family build a life dream for another family? We do not believe it does. We think this is fundamentally wrong.

Granted, some rich people may benefit. But so will a lot more people who are not rich. I do not have any inherent objection to people being rich. If they didn't steal the money, if they worked hard for it, if they created jobs for people from families like I am from and they benefited from it, that is what America is about. I do not have a hate for rich people. I do not understand our Democrat colleagues who say they love capitalism but seem to hate capitalists, who claim to love progress but appear to harbor a distaste for the people who create it. We do not believe we can build up America by tearing down families. We believe we can build up America by giving people a chance to compete and use their God-given talents. But we don't want people to have to sell off their farm or sell off their business to give Government a new tax on money that has already been taxed. We do not think death ought to be a taxable event.

I congratulate those who have been involved in this debate. I think it is a good debate. I think it is a debate that defines what we stand for and what our Democrat colleagues stand for. We believe when you work a lifetime to build up a business or a family farm, it ought to be yours for keeps. If we are successful, we are going to kill the death tax—yes, you will still have to pay taxes on any gain if the business or farm is sold—but when you build up a family farm or build up a family business, it is yours for keeps. When you die, the people you built it for, your children, are going to get it. If you want to give it away, if you want to donate it to Texas A&M, that is God's work; or if you want to contribute it to trying to cure cancer, but you ought to get to decide how it is disposed of, not the Federal Government, not some bureaucrat at the IRS, and not some politician in Congress. That is what this debate is about. It is an important debate. I urge my colleagues, when we cast our votes on this bill, to vote to kill the death tax.

UNANIMOUS CONSENT AGREEMENT—H.R. 8

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to H.R. 8 at the conclusion of morning votes on Thursday and it be considered under the following agreement:

That there be up to 10 amendments for each leader, with one of the 10 amendments for the minority leader described as the ''Democratic alternative'';

That no more than 20 amendments be in order, they be first-degree amendments only and limited to 40 minutes equally divided in the usual form, with the exception of the Democratic alternative, which would be limited to 2 hours equally divided, and an additional 90 minutes for each leader to be used at their discretion.

I further ask unanimous consent that following disposition of the amendments, the bill be advanced to third reading and passage occur, all without any intervening action or debate.

I finally ask unanimous consent that either leader be able to make this agreement null and void at any time during the consideration of this bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, this has been very delicately developed with a lot of careful consideration and very aggressive work with our colleagues on both sides of the aisle. I know Senator DASCHLE has Senators who have tax amendments they would like to offer.

I should emphasis that this is not the last effort to try to make our Tax Code fairer this year. We will have the reconciliation bill that will involve marriage penalty tax elimination, and obviously tax amendments would be offered in that area. We still have legislation that would eliminate the Spanish American telephone tax, which we probably can't get to until the first of September. But it is something we should eliminate. Obviously, there will be an opportunity for additional tax-related amendments to be offered to these two.

There may be a number of amendments on both sides that Senators would like to offer that maybe cannot be included in this type of agreement. But this is not the last train out of Dodge, thank goodness. We will have other opportunities to develop a fairer Tax Code, and Senators will have an opportunity on both sides to offer amendments.

I thank Senator DASCHLE for his effort. I did not want us to just get to a cloture vote which might or might not pass. But if it failed, we would get no result.

I think the death tax needs to be eliminated. It needs to be phased out. There may be some modifications in the bill as we go forward. But a result is what we should always seek for the American people—not just a show vote. This could get us to that point.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, while the majority leader and I have profound differences of opinion with regard to the estate tax and what to do with estate tax policy, I have been very appreciative of his willingness to work with us to accommodate the opportunity for Senators to offer amendments, which is what this agreement will allow.

This is a fair agreement. This isn't everything that our caucus or our colleagues have indicated they would like. There are far more amendments than this agreement will allow. But I underscore a comment just made by the majority leader. This is not going to be the last word on tax policy in this session of Congress. There will be other opportunities. I will do my utmost to accommodate Senators who have amendments they want to offer, if they are not going to be offered as part of this agreement.

I thank all of my caucus for their willingness to accommodate this agreement and for the opportunity to work through a very difficult set of procedural circumstances. This is far better than the old way that we were likely to be subscribing to, which is a cloture vote denying amendments of any kind, and maybe even denying an ultimate result. This will allow an ultimate result.

I hope we can have a good debate. I hope we can deal with these issues in a way that will afford us a real opportunity to consider alternatives. I think this agreement allows that.

I appreciate very much the majority leader's willingness to work with us. I appreciate especially the indulgence and the cooperation of all members of the Democratic caucus.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

VOTE ON AMENDMENT NO. 3185

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2549, and proceed to vote in relation to the pending amendment, No. 3185.

The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 86, nays 11, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—86

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

NAYS—11

Bunning	Kyl	Snowe
Collins	Sessions	Specter
DeWine	Shelby	Thompson
Feingold	Smith (NH)	

NOT VOTING—3

Dodd	Gregg	Helms

The amendment (No. 3185) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, in the presence of the assistant Democratic leader, I ask unanimous consent that, with the exception of the Byrd amendment on bilateral trade, which will be disposed of this evening, votes occur on the other amendments listed in that order beginning at 9:30 a.m. on Thursday, July 13, 2000.

I further ask unanimous consent that, upon final passage of H.R. 4205, the Senate amendment, be printed as passed.

I further ask unanimous consent that, following disposition of H.R. 4205 and the appointment of conferees the Senate proceed immediately to the consideration en bloc of S. 2550, S. 2551, and S. 2552, Calendar Order Nos. 544, 545, and 546; that all after the enacting clause of these bills be stricken and that the appropriate portion of S. 2549, as amended, be inserted in lieu thereof, as follows:

S. 2550: Insert Division A of S. 2549, as passed;

S. 2551: Insert Division B of S. 2549, as passed;

S. 2552: Insert Division C of S. 2549, as passed; that these bills be advanced to third reading and passed; that the motion to reconsider en bloc be laid upon the table; and that the above actions occur without intervening action or debate.

Finally, I ask unanimous consent with respect to S. 2549, S. 2550, S. 2551, and S. 2552, as just passed by the Senate, that if the Senate receives a message with respect to any of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill and agree to or request a conference, as appropriate, with the House on the disagreeing votes of the two houses; that the Chair be authorized to appoint conferees; and that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, it is my further understanding that there are remaining four votes that are going to be needed, and they are on amendments by Senators FEINGOLD, DURBIN, HARKIN, and KERRY of Massachusetts.

Mr. GORTON. I believe the Senator is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER. The Senate will resume consideration of the Interior appropriations bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4578) making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

Pending:

Wellstone amendment No. 3772, to increase funding for emergency expenses resulting from wind storms.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, we are finally back on the appropriations bill for the Department of the Interior. We will be on it from now until 6:30 this evening, when I understand we go back to the Defense authorization bill.

We have made some very real progress in the last 24 hours in the sense that we have a finite list of amendments that can be brought up on this bill. The difficulty is that, as I count them, there are 112 of those amendments that are in order at this point. The distinguished Senator from West Virginia and I both hope and believe that many of them will not be brought up, but this is notification to Members that if they are interested in having their amendments discussed, if they want to get the views of the managers of the bill on those amendments, they should be prompt. We want to hear from everyone this afternoon because we want to finish the bill today or, more likely, tomorrow.

One amendment that is ready to go is the amendment proposed by the senior Senator from Minnesota, together with the junior Senator from Minnesota, that is technically, I believe, the business of the Senate at the present time. I now see both Senators from Minnesota here, prepared to deal with that amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 3772

Mr. WELLSTONE. Mr. President, the pending order of business is amendment No. 3772. I can be very brief.

First, I thank my colleague, Senator GRAMS, for joining me in this effort. We have two amendments, I believe. I say to my colleague from Minnesota, I also join him in his effort.

We are both focused on the same question: a storm that happens about once every thousand years, a massive blowdown in northern Minnesota. We are both committed to helping get to the Forest Service the necessary resources to deal with the massive blowdown. There is a lot of important work to be done. This storm has been a nightmare for our State. One very positive outcome of the storm is the way in which the people in Minnesota have come together.

I thank Senator GORTON and Senator BYRD for accepting this amendment. It would restore about $7.2 million needed in emergency funding. It is critically important, and I thank my colleagues for their support. People in northern Minnesota will appreciate their support as well.

I say to Senator GRAMS, I have to leave the floor soon, but I also support the amendment he is introducing. I have another engagement. I am proud to be a cosponsor on that amendment with my colleague.

It is my understanding this amendment will be approved. I wonder whether we could now voice vote it.

Mr. GORTON. Mr. President, I think we want to let the other Senator from Minnesota speak.

Mr. WELLSTONE. Mr. President, I am sorry.

Mr. GORTON. The managers are prepared to accept the amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I join with Senator WELLSTONE to speak about the urgent need for cleanup and fire threat reduction funding in northern Minnesota. I first want to thank Senator GORTON for his willingness to work with me on this crucial issue for our state.

As many of my colleagues know, I've been working with my colleagues in the Senate, including Senator WELLSTONE, Senator GORTON and Senator STEVENS, for months to ensure that this crucial funding would be available for the Superior and Chippewa National Forests. I've made my request repeatedly, in both letters and

in conversations with the Appropriations Committee and the Senate Leadership. My colleagues on the Appropriations Committee gave me their assurance that the needs of Minnesota would be met.

I just returned from hearing over five hours of testimony in northern Minnesota on last year's storm and its dramatic aftermath. Regardless of political affiliation or the specific interests of those testifying, everyone agreed that the most crucial need in northern Minnesota was the reduction of the tremendous amount of downed timber scattered across the Superior National Forest and the Boundary Waters Canoe Area Wilderness. Right now, there are over 450,000 forested acres in northern Minnesota upon which lie millions of broken, dead or dying trees. Right now, those downed trees pose a fire threat that the Forest Service cannot model. If they're not first burned in a catastrophic fire, many of those trees will become ridden with disease, creating another threat for nearby forested areas that weren't impacted by the storm.

While much of the area most impacted by this storm lies within a federally designated wilderness area, the region is also known for its many homes and resorts and for the diversity of recreational activity it offers. Most importantly for those of us who represent the area is the protection of the lives and property of those who live in and visit this wonderful area of Minnesota. That's why I've insisted that there's an immediate need to reduce the threat of catastrophic fire and provide the Forest Service with the funding it needs to conduct cleanup and fire threat mitigation efforts.

I want to take a moment to address the process through which we arrived at this point. As I said earlier, I've been working with the Appropriations Committee for a number of months to secure this important funding. I first wrote to Senator STEVENS on March 15th seeking emergency funding in a supplemental appropriations bill for cleanup activities this year. I then wrote to Senator GORTON on April 12 asking that he include $9.249 million in emergency funding to address the pressing needs of the Superior and Chippewa National Forests. When the Agriculture Appropriations bill passed through the Appropriations Committee, I was pleased that my request had been approved and would soon be before the full Senate. And finally, when the Military Construction Conference Report was brought out of committee, we were successful in getting a $2 million down payment on the $9.249 million and a commitment that the remainder would soon follow in either the Interior bill or in the Agriculture bill. As I said earlier, the agreement reached today between Senators GORTON, BYRD, WELLSTONE and me fulfills the commitment I received almost two weeks ago.

There have, however, been some suggestions that the funding we're discussing today had been approved in the House of Representatives and then stripped out by the Senate. However, the House has never passed a single dime in emergency funding for northern Minnesota. I would also like to address claims that the Senate had somehow stripped this money out and ignored the needs of northern Minnesota. I've been in almost constant contact over the past few months with the Senate Leadership and with the Appropriations Committee. I have been assured repeatedly that this money will be available for Minnesota and that the pressing needs in this region of my State would be met no later than on the Agriculture Appropriations bill and hopefully on this bill. I'm grateful that now those needs will be met, consistent with the previous assurances I had received.

I would also like to mention that this is not the end, but the beginning of our efforts to ensure the safety and well-being of the people who live in or visit northeastern Minnesota. Reducing the threat of fire, protecting human life and property, and ensuring the continued economic viability of this region of our State should be our number one priority. I intend to see to it that those concerns are addressed by the Federal Government in the coming weeks, months, and years.

To that end, I intend to secure, through an amendment I have already filed, additional funding of $6.947 million for blow-down recovery and fire threat reduction efforts in northern Minnesota for fiscal year 2001.

As, again, Senator WELLSTONE mentioned, he is joining me on this amendment as well in support of this request. This money will provide the Forest Service in northern Minnesota with the funding they need in the coming fiscal year so that they can continue the cleanup efforts beyond October of this year. This is a massive cleanup effort that will cost millions of dollars and will continue for years past fiscal year 2001. I hope we can reach agreement with Senator GORTON and Senator BYRD to accept this important amendment as soon as possible.

Again, I thank Senator GORTON, Senator STEVENS, the staff of the Appropriations Committee, and Senator WELLSTONE for working with me for so many months to secure the funding needed to protect the lives and the property of the people of northern Minnesota.

I yield the floor.

Mr. WELLSTONE. Mr. President, I ask my colleague from Washington whether we can voice vote my amendment.

Mr. GORTON. I believe we are ready to take a voice vote on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3772) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I thank my colleague from Washington and my colleague from Minnesota for their help.

Mr. GORTON. We are working with the two Senators from Minnesota on a follow-on amendment. I hope we will be in a position to accept that relatively quickly.

Mr. President, two amendments were inadvertently left off the list for consideration. I ask unanimous consent that Senator THOMAS' amendment regarding a management study be included, and Senator LINCOLN's amendment on black liquor gasification be included under the agreement.

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

Mr. GORTON. Mr. President, we started with 112 amendments. We have adopted 1 and added 2, so we are now at 113. With that, the floor is open. I believe the Senator from Michigan is here to speak on one of his amendments.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I rise to talk with respect to one of the amendments on that list of 113, one that I had planned to offer, which would basically be an amendment that embodies a bill I introduced, S. 2808, the purpose of which was to temporarily suspend the Federal gasoline tax for 150 days, while holding harmless the highway trust fund and protecting the Social Security trust fund.

Obviously, this is not the type of legislation that would normally be brought on an appropriations bill. I have traveled throughout the State of Michigan in recent weeks where we are confronting gasoline prices that are so high that the motorists in our State and people in industries that depend on the purchase of gasoline and other fuels are up in arms at a level I don't believe I can ever remember.

Whether you are in the Abraham family, which owns a minivan and pays $50 to fill up the tank, or whether you are a family that has multiple minivans and fills up more than one tank a week, or whether you are a farmer who has many needs in the production of agricultural commodities for the use of motor vehicles and other machines that require oil and fuel, or whether you are in the automotive industry that depends on the purchase of SUVs, light trucks, and other American-made automobiles and motor vehicles, or whether it is the tourism industry that requires reasonably priced gasoline in order to make sure that summer vacation plans are carried out—and tourism is an economic sector that remains strong—regardless of your role in my State, you are very upset because today the price of gasoline in Michigan is almost 75 to 80 cents higher than it was a year ago. In

fact, this Monday, a national survey of gasoline prices indicated that in the city of Detroit, in the metropolitan area, we have the highest gasoline prices in America.

Something needs to be done about this. We have heard Senator MURKOWSKI and others on the Energy Committee talk about a variety of long-term strategies, ranging from the development of domestic energy, to addressing alternative energy sources, to conservation. We have talked a little bit here about regulations that have increased the cost of fuel development. We have talked about it in the Senate and have heard about issues that range from whether or not the oil companies are in some sort of collusive effort and are gouging the consumers of America.

We have heard all of these things. But the bottom line is, taking action in any of those areas will not dramatically change the price of gasoline in the short run. We may, if we develop more domestic energy sources, be in a better position to control production and supply and, as a consequence, price. We may, if we address certain regulations, make it possible to change the price. But none of that is going to happen overnight.

In my State and across the Midwest, and really across the entire country, people want action sooner, not later. There is only one thing we can do as a Congress that will bring action sooner rather than later with respect to the price of gasoline, and that is to temporarily suspend the Federal tax on gasoline of 18.4 cents. Overnight, at every filling station in America and every gas station, the price of gasoline would theoretically come down by about 18 cents. Believe me, people will show up to buy that less expensive gasoline.

In Michigan, just a few days ago, a gas station, having heard my plea to suspend the Federal gas tax, reduced the price of gasoline for 2 hours at that station in the Detroit metropolitan area by 18.4 cents. There were lines of traffic a quarter mile virtually in every direction to get into that station because people who had been desperate to pay less for gasoline had the chance to do so—for 2 hours at least.

Our State's economy and the Nation's economy is being affected by these high fuel costs. Recently, I conducted a hearing in Warren, MI. We heard from people in the Michigan agricultural community who indicated to us that, according to their estimates—and, in fact, we heard from a family farmer himself who said they expect their net family farm income this year to be approximately 35 percent lower than it was projected to be. But we heard from people in the Michigan automotive community who indicated that already they were beginning to see indications of a shift from the purchase of new vehicles made in America to the purchase of imported vehicles.

I think many of us remember back when we had energy problems in the 1970s and we saw a shift away from American-manufactured vehicles to foreign imports, and what that did not just to the economy of Michigan or the auto industry but its rippling effect across the entire economy of this country.

We heard from others as well. We heard from consumers who came to that hearing and talked about the impact on their families and the sort of things they could no longer afford to do.

It is not only people who came to the hearing that I heard from. Last weekend, I was up in Traverse City, MI, to participate in the annual cherry festival. I was confronted by a group calling themselves the ''Traverse City Gas Can Gang.'' When I was walking in the parade, they were imploring me, and virtually all other political figures present at that parade, to do something about the gasoline tax because basically they couldn't afford the price of gasoline.

I had a press conference in the city of Alpena, MI, and a lady senior citizen attending the press conference told me she had to walk to the press conference. She was interested in what I had to say about gas prices. She walked because she couldn't afford to pay for gas in order to drive. She was not a young constituent. She was an elderly senior citizen.

But I am not the only one confronting these kinds of constituents. These high prices across America are substantially more than they were a year ago. The metro Detroit area currently suffers under the highest gas prices in the country. Even though the price has come down from approximately $2 a gallon, it is still approximately $1.85 a gallon this week. These prices are 40 cents a gallon higher than they were in May of this year. That is a 27-percent increase in 2 months.

Of course, it is not in Michigan alone. Across the country people are confronting the same kind of significant increases. In June of 1999 gas prices in my State averaged just over $1.13 a gallon in Detroit, $1.17 a gallon throughout Michigan. One year later, gas prices were averaging $2.14 a gallon in Detroit, and just under $2.08 a gallon in the State of Michigan as a whole. That is almost a 90-percent rate of inflation for gas in the State.

As I pointed out, former Soviet Republics don't suffer inflation this aggravated. Even with the recent slight drop in gas prices, it is still 56 percent higher this year than it was 1 year ago.

There are a lot of possible explanations. There are a lot of factors that have come into play. This Congress and this Senate have a responsibility to deal with the long-term issues. But we also have a responsibility to provide relief in the short term, if we can. That is what can be accomplished if we were to temporarily suspend the Federal gas taxes. Eighteen cents a gallon would make a big difference to the people in my State.

This is not insignificant. It is more than a 10-percent reduction in the price of regular gasoline. For the typical one-car or one-minivan family, that would mean savings of $150 over the next 5 months. For those who are in the trucking industry, of course it would reduce their diesel prices by almost 25 cents a gallon. That would make a huge difference for them in terms of their bottom line as well.

My proposal is designed to simultaneously reduce the price at the pump and protect the road-funding dollars that many of our States, including certainly mine, are counting on from Washington. We would replenish any lost revenue to the highway trust fund at the same time we would suspend the gas tax.

As you know, we are confronting for this year as well as for the next year record high surpluses of non-Social Security dollars. Our proposed amendment would, in fact, use those non-Social Security surplus dollars to make sure that highway funding remains constant.

It is our projection and estimation that over the next 5 months the suspension of the gas tax would reduce the highway trust fund by approximately $6.5 billion. Our amendment would replenish those dollars from the general fund.

Indeed, the language of our amendment states specifically that nothing in this subsection may be construed as authorizing a reduction in the apportionments of the highway trust fund to the States as a result of the temporary reduction in rates of tax.

In short, the proposal embodied in my legislation and in the amendment I had planned to bring to the Interior bill would suspend the gas tax and make sure the highway funds continue to flow by using non-Social Security surplus dollars.

When we initially sought to bring this amendment on the Interior appropriations bill, it was unclear what the Senate schedule would be with respect to other appropriate legislation where we might bring this amendment. I am happy to hear this morning that a unanimous consent agreement was entered into which will allow us to take up tomorrow the estate tax—the death tax—legislation that has been discussed over the last day and a half, and that amendments such as this one would be in order at that time.

Indeed, I have already been in consultation with our leadership as to securing one of those amendment slots to bring this amendment in the context of the tax bill, which is clearly a more preferable vehicle for us to address these issues. It is my plan to return to the floor tomorrow when that tax bill is before us with one of the amendments to be offered on the Republican side.

Before I leave, I wish to make it very clear to my colleagues that this is a serious problem—not only in Michigan but across the country. If we continue to have to pay gas prices of the level we are paying today, even though they

have come down slightly in the last couple of weeks, it is going to have a very serious impact on the economy of this country. It is going to hurt our agricultural sector, our tourism sector, our automotive sector, and it will have a rippling effect across America. That means it is not only a problem for somebody who owns a minivan or for somebody who drives a truck; it is going to ultimately be a problem for all of us.

I believe over time a lot of this will be alleviated as supply and production increases by Saudi Arabia and others begin to take effect. But I can't wait that long. My constituents can't wait that long. We need to do something sooner, not later.

I believe the one thing that makes sense to do, that we can afford to do, that will make a difference immediately, and that will provide the consumers in my State with an opportunity to be able to afford gasoline—or at least more easily afford gasoline—is for us to recognize that we are going to have a huge surplus this year, a projected surplus next year, and that a little bit of that surplus over the next 5 months can be used to protect the highway trust fund and give consumers a break. I believe in doing that.

We will do something that will be immensely supported by the people across America who have to fill up their tanks once or twice a week by average working families in this country for whom a rise of 63 percent or 90 percent in the price makes a big difference. I believe it is an action that we should take. The last time we voted on it, there were approximately 43 votes in favor of a gas tax suspension. But that was before these prices crested to the level of today. I believe the Senate should have one more vote on this. I look forward to this debate tomorrow.

At this time, I will withdraw from the list my amendment and allow the Senator from Washington to continue with other amendments on this bill. I thank him for his indulgence. I look forward to debating this issue tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I am grateful to the Senator from Michigan on two fronts: One, that we will not have to deal with the amendment on this bill—at least not on the subject of the bill itself—and substantively for bringing up a vitally important issue; and for his dedication, which I am certain was key to giving him the ability to bring this amendment to the floor of the Senate on a bill for which it is relevant and in a way that Members of the Senate will be able to vote on it. I wish him good fortune in that quest. His case was persuasively stated.

AMENDMENT NO. 3773

Mr. GORTON. Mr. President, I call up amendment No. 3773.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. GORTON) proposes an amendment numbered 3773.

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

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

The amendment is as follows:

On page 167, line 15 of the bill, insert the number ''0'' between the numbers ''1'' and ''5''.

Mr. GORTON. Mr. President, this is a technical amendment. It is to correct an improper citation to public law referenced in the bill.

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

The amendment (No. 3773) was agreed to.

AMENDMENT NO. 3801

(Purpose: To approve the reprogramming of funds for computational services at the National Energy Technology Laboratory)

Mr. GORTON. Mr. President, on behalf of my colleague from West Virginia, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. GORTON), for Mr. BYRD, proposes an amendment numbered 3801.

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

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

The amendment is as follows:

At the end of Title III of the bill insert the following:

''SEC. . From funds previously appropriated under the heading ''Department of Energy, Fossil Energy Research and Development,'' $4,000,000 is immediately available from unobligated balances for computational services at the National Energy Technology Laboratory.''

Mr. GORTON. Mr. President, this confirms a reprogramming of an energy program in the State of West Virginia over which there have been some technical difficulties, and assures that money previously appropriated will be used for the purpose stated in the amendment.

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

The amendment (No. 3801) was agreed to.

AMENDMENT NO. 3802

(Purpose: To amend the amount provided for the State of Florida Restoration grants within National Park Service land acquisition)

Mr. GORTON. I send a further amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 3802.

Mr. GORTON. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 127, line 11, strike ''$10,000,000'' and insert ''$12,000,000''.

Mr. GORTON. Mr. President, this corrects a figure in the bill to bring it into conformance with the committee report and the intention of the committee in passing a bill. In other words, it was simply a drafting error.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3802) was agreed to.

Mr. GORTON. I move to reconsider the vote on all three amendments.

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

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, that is all I can deal with at the present time. I repeat—and I know my friend from Nevada is with me on this—we do have a very substantial number of additional amendments. It looks as if somewhere between 6 and 10 may require rollcalls. I particularly urge we start the debate on significant policy amendments to this bill. This is a request to Members who were eager to list amendments for debate to come to the floor and present those amendments.

Mr. REID. I say to my friend, this bill may not be around very long. This may be the only opportunity to offer these amendments because the two leaders have outlined a tremendously difficult legislative program in the next 2½ weeks. This may be the only time in the Sun for some of these amendments.

Mr. GORTON. We are going to the tax bill tomorrow with 20 amendments or so in order for it. Members desiring to deal with this Interior appropriations bill need to present themselves on the floor with those amendments as promptly as possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3803

(Purpose: To provide funding for expenses resulting from windstorms, with an offset)

Mr. GORTON. Mr. President, I send an amendment to the desk for Mr. GRAMS and Mr. WELLSTONE, and I ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Senators GRAMS and WELLSTONE, proposes an amendment numbered 3803.

Mr. GORTON. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 126, line 16, strike ''$207,079,000,'' and insert ''$202,950,000, of which not more than $511,000 shall be used for the preconstruction, engineering, and design of a heritage center for the Grand Portage National Monument in Minnesota,''.

On page 165, line 25, strike ''$618,500,000,'' and inserting ''$622,629,000, of which at least $6,947,000 shall be used for hazardous fuels reduction activities and expenses resulting from windstorm damage in the Superior National Forest in Minnesota, $3,000,000 of which shall not be available until September 30, 2001''.

Mr. GORTON. Mr. President, this amendment was discussed a few moments ago by Senator GRAMS and approved by Senator WELLSTONE. It deals further with the emergency in Minnesota they discussed earlier. I was delighted at the wonderful cooperation between those two Senators. I agree with their description of the emergency. I ask the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3803) was agreed to.

Mr. GORTON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, the chairman of the subcommittee and I are here on the floor. We are very eager to have Senators who want to call up amendments come to the floor and call up their amendments. I urge Senators: Make haste and come while the time is running and ripe. At some point we have to call up our amendments or go to third reading. It is a little early to go to third reading, but I would plead with Senators not to wait. This is an excellent opportunity. If I had an amendment to the bill, I would be eager to see a moment such as this when other Senators are not seeking recognition, and I would be eager to come to the floor, work out my amendment with the two managers, and be on my way back to the office and other things.

So I make that urgent plea because at some point, if Senators do not come to the floor with their amendments, I may move to go to third reading and get the yeas and nays on that. Of course, if that motion carries, there can be no more amendments. I am not saying I will do that yet, but there will come a time. That is a good fiddler's tune: There will come a time, there will come a time someday. This is your chance, now. Staffs of Senators who are working on amendments, this is your chance. Get your Senator here and let's get the amendments and get votes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3804

(Purpose: To provide additional funds for Payment in Lieu of Taxes program)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS], for himself, Mr. HATCH, Mr. BURNS, and Mr. GRAMS, proposes an amendment numbered 3804.

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

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

The amendment is as follows:

On page 112, line 20, strike ''$693,133,000'' and insert ''$689,133,000 of which not to exceed $125,900,000 shall be for workforce and organizational support and $16,586,000 shall be for Land and Resource Information Systems''.

On page 113, line 14, strike ''$693,133,000'' and insert ''$689,133,000''.

On page 115, line 19, strike ''$145,000,000'' and insert ''$148,000,000''.

Mr. THOMAS. Mr. President, this is an amendment that deals with a program called Payment In Lieu of Taxes. Last year there was an appropriation of approximately $135 million. This year we intended to increase that amount. We have a letter that came from 57 of our colleagues urging an increase. We have changed the amendment to where it would be an increase in funding over the proposal by $3 million, bringing it up to $148 million.

This is substantially below what the authorizations are. However, I do understand the difficulty of the funding. I appreciate the opportunity to work with the chairman and the ranking member.

Basically what this does, of course, is provide payments to the States for the public lands that are owned there, public lands that if they were privately owned would be taxed and would be an income source.

These counties, despite the fact there is no taxable income, continue to carry on their services—lease services, hospital services, other kinds of services. So really it is sort of a fairness issue when the Federal Government has substantial amounts of ownership.

In Wyoming, 50 percent of the State belongs to the Federal Government. We have counties that run as high as 96 percent being federally owned lands and many that are over half. So this is sort of a payment to them. The Nation, of course, benefits from this ownership, but the counties have to pay the ticket.

I will not go into great detail. But I urge this amendment be agreed to.

Mr. President, I ask unanimous consent that the letter that was sent to the chairman be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, March 17, 2000.

Hon. SLADE GORTON, Chairman,
Hon. ROBERT C. BYRD, Ranking Member,
Subcommittee on Interior, Senate Appropriations Committee, U.S. Senate, Washington, DC.

DEAR SENATORS GORTON AND BYRD: We write to request your support for a multi year process that will lead us to full funding for the Payment in Lieu of Taxes (PILT) program on public lands across the country.

We believe the most favorable course of action would be to appropriate the full authorization level of PILT by FY 2010. The Bureau of Land Management has informed us that the authorized PILT funding level under PL. 103–397 in FY 2005 will be approximately $335 million based on current inflation rates. We realize there are many important needs to be addressed in the Interior Appropriations bill this year. However, a five-year $20 million per year increase would help more than 2000 counties and local governments meet the mandates imposed upon them by an ever increasing public land base. Additionally, it would allow the federal government to work toward fulfilling a commitment it made to counties in 1976 when Congress passed the original PILT act in a fiscally responsible manner.

You are keenly aware that counties, on behalf of the federal government, provide many critical infrastructure servides—including police, search and rescue, fire fighting, road maintenance, garbage collection and other services. Because of the amount of public lands in these counties, they do not have the ability to raise the necessary funds through traditional property taxes.

In the past public lands provided many economic benefits to local communities through multiple use activities such as grazing, mining, oil, gas and timber. The monies generated also stayed in public land counties. These resource activities face ongoing pressures and hardships, and are being replaced by people recreating in these areas. The effect is an increased demand for services often far in excess of resources that the tourism dollars bring to these rural communities.

It is common for federal land ownership in some counties to exceed 50 percent to more than 90 percent. With the trend toward additional acquisitions by the federal government of private taxable land, we believe it has become an absolute necessity that Congress meet its obligation and begin a process that will lead toward full funding of PILT within a reasonable period of time. Absent this, we fear counties will have no choice but to reduce or eliminate essential public services on public lands due to budgetary constraints. Please know you have our full support as we move forward working with you

on an incremental increase for PILT which allows for this critical program to eventually realize its full authorization level.

Best regards,

Craig Thomas; Mary L. Landrieu; Tim Johnson; Kent Conrad; Frank H. Murkowski; Richard Shelby; Conrad Burns; Mike DeWine; Ben Nighthorse Campbell; Byron L. Dorgan; Jon Kyl; Jesse Helms; Jim Bunning; Dick Lugar; Barbara Boxer; Michael B. Enzi; Rod Grams; Spencer Abraham; Larry E. Craig; Mike Crapo; Orrin Hatch; Wayne Allard; Dianne Feinstein; Gordon Smith; Chuck Hagel; Pete V. Domenici; Patrick Leahy; Judd Gregg; Olympia Snowe; Bob Smith; Strom Thurmond; Kay Bailey Hutchison; Tom Daschle; Ron Wyden; Jim Inhofe; Richard H. Bryan; Harry Reid; Patty Murray; Paul Wellstone; Trent Lott; Chuck Robb; John Edwards; Mitch McConnell; Jim Jeffords; Max Cleland; Jeff Bingaman; John Breaux; Rick Santorum; John Ashcroft; Dick Durbin; Max Baucus; Kit Bond; Tim Hutchinson; Bill Frist; Carl Levin; Paul D. Coverdell; Blanche L. Lincoln;

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, we have worked with the Senator from Wyoming on this subject, a subject in which he has been interested, I believe, ever since he came to the Senate, and one in which I am interested as well.

The bill does include an increase for this Payment In Lieu of Taxes. This money is very important to many counties—rural counties almost entirely—that have much or most of their property owned by the Federal Government.

I would like to be more generous than this. I think this is about as far as we can go. I appreciate the willingness of the Senator from Wyoming to come up with a reasonable increase. I am willing to accept it. I believe my colleague is as well.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have no objection on this side.

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

The amendment (No. 3804) was agreed to.

Mr. GORTON. I move to reconsider the vote.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the chairman and Senator BYRD for accepting the amendment, and also Senators HATCH, GRAMS, and BURNS for cosponsoring this amendment. I think it is useful. I appreciate it very much.

Mr. STEVENS. Will the Senator yield?

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

AMENDMENT NO. 3774, WITHDRAWN

Mr. STEVENS. I ask unanimous consent my amendment No. 3774 be withdrawn.

The PRESIDING OFFICER (Mr. THOMAS). The Senator has a right to recall his amendment.

Without objection, it is so ordered.

The amendment (No. 3774) was withdrawn.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I begin by complimenting Senator SLADE GORTON and Senator ROBERT BYRD, the chairman and the ranking member of the subcommittee that brings this legislation to the floor. The Interior appropriations bill is a very important piece of legislation, but it faces the classic problem of trying to meet unlimited needs with limited resources. Senator GORTON and Senator BYRD had a very difficult task, but they have done quite a remarkable job and have certainly earned my compliments and I hope the compliments of my colleagues for the job they have done.

I wish to speak for a few moments, however, about a very difficult problem that is encountered by a group of Americans who suffer some of the highest unemployment rates, some of the most difficult health problems, and the most difficult challenges of any Americans. I'm speaking of Native Americans.

We have in North Dakota four Indian reservations. I frequently visit these reservations and meet with the tribal chairs, men, women, and children who live there. The conditions in some cases on these reservations are very much like those of a Third World country. The unmet health care needs are devastating. The unemployment rates in some cases are as high as 50, 60, and 70 percent because these areas are so remote and there are simply no jobs. And the quality of education regrettably is not up to the standards it should be.

As I talk about these problems today, I want to point out that this bill, for the first time, makes some significant steps in the right direction. This is an important moment. This appropriations bill does make some important progress in dealing with the issues of Indian health care and Indian education.

Yet there is so much left to do. The people in America who live in Indian country have the highest rates of poverty in our country. Over 30 percent of Native Americans live in poverty. The unemployment rate on Indian reservations in North Dakota averages 55 percent. Compare that to the unemployment rate of around 4 percent in the United States as a whole.

To help address the problems that Native Americans face, President Clinton recommended a $1.2 billion increase, government-wide, for priority health care, education, economic development, and other infrastructure needs in Indian country. I am particularly pleased about the President's recommendations in some key areas, including the $300 million he proposed for BIA school replacement and repair. This is $167 million more than the current level, the largest ever single year investment in BIA school infrastructure. The President's budget also proposes a $200 million, or 10-percent, increase in the Indian health services budget.

The increased funding levels in the Senate bill, even though they represent significant progress under difficult circumstances, still fall significantly short of both the President's budget request and what we need to do. Unfortunately, the House-passed Interior bill is far, far worse. We are going to fall short once again of meeting the actual needs of Native Americans.

Let me talk for a moment about the health care needs in Indian country. A Native American living on the reservation is 12 times more likely to have diabetes than the average American—not double or triple or quadruple but 12 times more likely to have diabetes—and 3 times more likely to die from diabetes. An American Indian is five times more likely to die from tuberculosis, four times more likely to die from chronic liver disease, 3 times more likely to die in an accident, especially an automobile accident, and nearly twice as likely to commit suicide.

I recently visited the Indian Health Service hospital in Fort Yates, ND. I have here a picture of that hospital. It has been around for a long while. It doesn't have an emergency room. The folks who use that hospital don't have access to an operating room, and they therefore can't deliver babies because they don't have an operating room. The emergency room is in the midst of the waiting rooms, so when an emergency occurs, everyone in the waiting room has to clear out. It is not visible in this picture, but there is a little old trailer house where the dentist practices. The 1 dentist practicing in that trailer serves 5,000 people.

Now this dentist is no doubt providing the best service that he can given the circumstances he has to work in, but just imagine the kind of dental care that is provided by 1 dentist for 5,000 people. Do you think that dentist is constructing difficult bridges or other complicated treatments for teeth that are in trouble, or is he more likely pulling teeth? This is at Fort Yates, ND, on the Standing Rock Indian Reservation.

The current funding for the Indian Health Service is about 43 percent less per capita than health care spending for the U.S. population generally. The Indian Health Service spends about $1,400 per patient, compared to the national per capita amount per patient of $3,200.

Let me also talk for a moment about education on the reservations. Again, I appreciate the leadership of Senator GORTON and Senator BYRD in providing $276 million for BIA school replacement and repair in this coming fiscal year.

The Federal government has a trust responsibility to provide an education

to Indian children. This is not a luxury or some discretionary choice. We have a trust responsibility to Indian children, just as we have a responsibility to provide for an education for the children of our military personnel residing on or near military bases. The Federal government runs the Department of Defense school system. We also have a trust responsibility to run the school system through the BIA. We have not done that very well. We are woefully short of the funds that are needed to keep these schools up to standard. Even with the funding increases in the Senate bill, there will continue to be a nearly $700 million backlog in repair and replacement of BIA schools.

The GAO says the schools that are serving these Indian children are among the poorest schools in the Nation. Yes, that is among all schools, even those in the inner-cities, where they also have a lot of problems. But the worst school facilities in the Nation are those on the Indian reservations.

This is a picture of a school on the Turtle Mountain Reservation. This happens to be the Ojibwa Indian School. This is a fundamentally unsafe school, as many health and safety investigations have found. One day, my fear is that something awful will happen at that school and people will say, How did that happen? It will happen because nobody paid attention to the warnings.

This is a picture of the fire escape. Notice, it is a wooden fire escape, which is rather unusual—a fire escape made of wood. This is clearly a fire code violation.

The children of the Ojibwa school are attending classes in trailers that have been constructed because the main school building is over 100 years old and has been condemned. So the kids are now put in the mobile units and are required to scurry back and forth, up and down these stairs, in the dead of winter in North Dakota, with temperatures at 30 below zero and with the wind blowing. The people who have inspected these facilities from time to time have found all kinds of problems with them. This wooden fire escape is simply one of many.

This is a picture of the plumbing at the school in Marty, SD, the Marty Indian School. Take a look at that plumbing. See if you want to take a drink of the water from those pipes. Or take a look at this rusted radiator. Not exactly the modern radiator needed to keep the students warm in the dead of a South Dakota winter.

Or, to return to another picture of the Ojibwa school, where the ground beneath the gymnasium is giving way. For safety purposes they have put up plywood, and that plywood is all that separates children from danger as the ground gives way under the corner of the gymnasium.

We have to do much better than this. We can and should do better than this. We have a responsibility to these kids. I have come to the floor many times and talked about these needs. I know I am repetitive, and I know people say that they have heard it all before. But frankly, a lot of these people don't have much of a voice in this appropriations process.

A little third grader, Rosie Two Bears, once asked me: Mr. Senator, are you going to build me a new school? I realize I can't build Rosie a new school even though she desperately needs one. She goes to a school that is terribly inadequate. Rosie goes to a school with sewer gas coming up through the floors of one classroom, which they had to evacuate once or twice a week. She goes to a school in which there are 150 students with 1 water fountain and 2 toilets, a school with no playground.

The fact is, we can do better than that. This bill makes some significant improvements in health and education. For that, I commend all the folks involved. On the Appropriations Committee, I tried to make even more improvements, and I'm glad I was able to do that marginally in the area of tribal college funding. However, I come to the floor to say we have to do better.

The superintendent of the Wahpeton Indian school, Joyce Burr, told me a while ago about a little girl attending that school. Many of these kids are sent to that school from around the country, and they come from troubled backgrounds, many without much of a family or home to go back to. Joyce told me the little girl came to her near Christmastime, when the school was going to close during the 2 week holiday at Christmas and the children would be sent back to their reservations, to their families. This little girl, a third or fourth grader, went to the superintendent and said: I would like to stay over at the school during the Christmas break. I know the school isn't going to be opened, but I promise if you let me stay here I won't eat very much. She had no place to go, so she was asking if she could stay at the school all alone over the Christmas break, promising, ''If you let me do that I won't eat much.'' We must do much better for these children.

On the other end of the education spectrum, with respect to tribal colleges, I want to say we are starting to make some progress there, for which I am very grateful. The tribal colleges represent an extension of educational opportunity and a way out of poverty. I went to a tribal college graduation once and met the oldest graduate in the graduating class. She was 42 or 43 years old, with four children, whose husband had left her. She was cleaning the toilets and the hallways at the tribal college and decided she was going to try and improve her lot in life by attending the college.

The day I was there, she graduated. I can hardly describe the smile on her face that day. This woman decided, with grim determination: I am going to graduate from this college. I know I am cleaning the hallways and bathrooms, but I want to do more than that. Through grit and determination, the help of relatives and scholarships, and because the tribal college was right there, guess what—the day I showed up to give the graduation speech, this proud woman graduated from college. Good for her.

Or the instance of Loretta. Loretta had dropped out of school. She was an unwed teenaged mother. Now she is a doctor, a Ph.D., a real expert on education who eventually went on to teach at a tribal college for awhile. She did that by herself, but she did it because we put in place a system of tribal colleges that give people like Loretta the opportunity to go to school and get a college education. That is why tribal colleges are so important. Frankly, we contribute only about half as much per student at tribal colleges as we do to other colleges around the rest of the country. We need to do better than that. I am pleased to say this piece of legislation starts down that road.

Let me conclude where I began. I am here because I am pleased we are making progress. These are important, critical issues. We cannot ignore the circumstances that exist on Indian reservations. It is easy enough for some people to say that this is the way Indians want to live. That is not the case at all. These are Americans who are beset by poverty, lack of opportunity, lack of jobs, a bad health care system, and a crumbling education system that we must improve. I believe we are taking the first steps in this legislation to do that. For that, I commend my colleagues who brought this bill to the floor —Senator GORTON and Senator BYRD.

I say to them, I will be back again next year, as we continue our work in the Appropriations Committee, saying that we have done a lot, we have made some first important steps and thanks for that. But let's continue to try to address these education and health care needs on our reservations for Indian Americans. Let's try to do even more in the coming fiscal year.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Washington.

Mr. GORTON. Mr. President, the Senator is eloquent and persistent and has had great successes, and I am sure he will have great successes in the future. I thank him for his comments and his support.

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

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

Mr. DOMENICI. Mr. President, I wonder if I can engage in a discussion with the distinguished chairman, Senator SLADE GORTON, on the bill before us.

By way of some opening remarks directed at the fine, excellent job he has done on this bill, I want to talk with him for a moment about what we have done for the U.S. Government-owned-and-maintained Indian schools in the United States in the Interior appropriations bill.

First, when we are finished supplying the numbers for the RECORD, which are obviously in the bill, it should not go unnoticed that this is the first time we have substantially—and I mean substantially—increased the money for the construction of Indian schools owned by the U.S. Government. Let's not be confused with public schools. These are schools that if the Federal Government does not pay for, I ask my chairman, nobody will pay for them, right; they belong to us?

Mr. GORTON. The Senator is entirely correct.

Mr. DOMENICI. And they are maintained by us. As the accounts will show, not only are we in a terrible state of disrepair, in terms of those schools that need management money, but we have a huge backlog of schools that should be built—that is, built anew—because the facilities that Indian children are occupying are truly intolerable.

Thus far, have I stated what the Senator from Washington has attempted to accomplish in this bill?

Mr. GORTON. The Senator from New Mexico is correct, but I really need to say more to respond to him in the affirmative. He has perhaps been the most eloquent, though he has been certainly strongly supported by the Senator from North Dakota on that side of the aisle, our friend, Senator INOUYE, from that side of the aisle, and the Senators from Arizona, in attempting at least to begin with the huge backlog in the absolute necessity of constructing new Indian schools that are 100 percent our responsibility and for renovating and repairing those that can constructively be renovated and repaired.

The Senator from New Mexico also knows how difficult this has been in past years because while the President of the United States has always asked us for big increases in the budget really for spending more money than we thought overall was appropriate to spend, he has always ignored these Indian school needs.

This year, in this budget, the President did dramatically reverse himself and did ask for a generous appropriation for new Indian school construction. That partnership, and the bipartisan partnership on the floor of the Senate, gave me the ability of drafting this bill to begin both appropriate new construction and a large number of repairs and rehabilitation.

I would be deficient in my own duty if I did not say that the first person who saw this need—not only saw this need but spoke eloquently to this need—was the Senator from New Mexico.

Mr. DOMENICI. Is it not true one other major function of activities that we must do in behalf of Indian people has to do with health care, wherein we have hospitals and medical facilities that are run by the U.S. Government for the Indian people? There, again, we have just been barely getting by in terms of keeping them open and properly maintained, and they are rather good medical facilities, I say to the American people. It is not like the public schools that we are ashamed of because they are in such disrepair.

Mr. GORTON. The Indian schools.

Mr. DOMENICI. The Indian schools, yes. They are in such a state of disrepair. Indian health is in pretty good health. In this bill, the President asked for substantially more money, and we were able to fund a substantial increase in Indian health money in the Interior appropriations bill; is that correct?

Mr. GORTON. The Senator from New Mexico, in this instance, as in the earlier instance, is correct.

Mr. DOMENICI. Mr. President, for a period of about 4 years, I was joined with bipartisan letters that we sent to the President of the United States and to the Assistant Secretary of the Bureau of Indian Affairs saying: Will you please put in your budget a 5- or 6-year proposal to pay for the great backlog we have in Indian school construction which, I repeat, only we can make. It is not a question of somebody being generous or kind in building an Indian school. These are Indian schools we own, we operate, and we pay the teachers—we being the United States of America.

The President, after a visit—not the last visit he made to Indian country which was to New Mexico, but one just before that, which was his first visit to Indian country as a President—came back and talked about doing something to enhance economic development—that is, jobs—for Indian people.

I was very privileged to be at the White House and discuss the issue with him personally, after which time we joined with a bipartisan group of Senators and put together a package that strengthened our construction and maintenance of schools, that did somewhat more for Indian health and a few other things. The aftermath of that was the introduction of a bill, and the aftermath of that is the bill on the floor which increases funding in these very important areas.

In closing, the funding in this bill, which essentially resulted from that meeting in the White House to which I just eluded, and then joining a bipartisan group of Senators, really is not going to move us much in the direction of better jobs in Indian country for the Indian people. All of these things that I mentioned are a necessity.

Essentially, there is something basic that the Indian leaders and local communities and the National Government are going to have to do that will make the climate in Indian country better for private sector job growth. I do not levy any criticism at anyone individually, but it is quite obvious that tax credits alone will not do it, for we did that 4 years ago. The most extensive tax credits were passed to give Indian communities a chance to bring in private sector jobs. It is still on the books. It is a huge tax credit per Indian employee. We passed accelerated depreciation at the same time. If somebody builds a plant, they get to accelerate the depreciation much more rapidly than if they were next door in non-Indian country.

The problem is that the combination of all of that has not worked to create any large acceleration in the number of Indian people being employed in Indian country in permanent jobs.

I submit it will take a kind of a change in the attitude of Indian leaders. I think they are beginning to understand that. Businesses will not go even to an Indian reservation in America with tax credits and other benefits if, in fact, they are not satisfied with the business climate on the reservation; that is, if they can go 50 miles to a community off reservation and believe they have a lot more certainty of law, more certainty with reference to rules and regulations, they are not going to be coming to Indian country.

I have been urging that the Indian leaders, while they claim their sovereignty, understand that every government entity that claims sovereignty, from time to time, shows that sovereignty by giving up a little bit of it, by waiving a piece of it, or by entering into an agreement where they share responsibilities with another unit of government, frequently called intergovernmental agreements. These things are going to have to happen if we are going to bring jobs to Indian country.

There is much more to be said about it. There are many people who have tried, and I do not know just when it will work or when it will start working to any significant degree, but I am confident that this year we took a giant step in terms of the public responsibility. There are things moving around, either at the White House or out in Indian country, that are trying to move this whole attitude issue in a direction of business feeling more comfortable on Indian country.

I thank the chairman, again, for the bill with reference to the Indian people and I thank the committee that worked with him to bring it here.

Having said that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. 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. 3795

(Purpose: To provide for a review committee for certain Forest Service rules)

Mr. CRAIG. Mr. President, I call up amendment No. 3795.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] for himself, Mr. HUTCHINSON, Mr. CRAPO, Mr. THOMAS, Mr. ENZI, Mr. BENNETT, Mr. HATCH, Mr. NICKLES, and Mr. SMITH of Oregon, proposes an amendment numbered 3795.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following section:

SEC. . REVIEW COMMITTEE FOR FOREST SERVICE RULES.

(a)(1) From the amount appropriated for ''Forest Products,'' a sum of $1,000,000 shall be made available until expended to the Secretary of Agriculture for the purpose of reviewing certain proposed rules concerning the planning and management of National Forest System lands referred to in paragraph (2).

(2) The proposed rules subject to this section are the proposed road management and transportation system rule, and proposed special areas—roadless area conservation rule published at 64 Federal Register 54074 (October 5, 1999) and 65 Federal Register 11676 and 30276 (March 3 and May 10, 2000), respectively.

(b) With the funds allocated pursuant to subsection (a)(1):

(1) The Secretary shall appoint an advisory committee in accordance with the Federal Advisory Committee Act and subsection (d) of persons knowledgeable, and reflecting a diversity of viewpoints, concerning issues related to the planning and management of National Forest System lands. The appointments shall be made as soon as practicable after the date of enactment of this Act.

(2) The advisory committee shall—

(A) review and evaluate the proposed rules referred to in subsection (a)(2) and their prospective implementation, particularly as to their cumulative effects and the manner in which they relate to each other, are integrated, and will function together, including any inconsistencies or conflicts in their goals, purposes, application, or likely results and determined whether and in what way they may be improved; and

(B) submit a written report to the Secretary describing the results of the review and evaluation of the proposed rules required by, and any recommendations for improvement of such rules determined pursuant to, subparagraph (A), including any supplemental or minority views which any member or members of the advisory committee may wish to express.

(3) The Secretary shall make the report of the advisory committee required by paragraph (2)(B) available for public comment and submit the report to the Congress, together with a written response of the Secretary to the report and the public comment on the report.

(c) No funds appropriated by this Act or any other act of Congress may be expended for further development or promulgation of the proposed rules referred to in subsection (a)(2) prior to 60 days after the date of submission to the Congress of the report of the advisory committee and the response of the Secretary pursuant to subsection (b)(3).

(d)(1) The advisory committee appointed pursuant to subsection (b)(1) shall have no more than 15, nor less than 9, members who may not be officers or employees of the United States. The Chair of the advisory committee shall be selected from among and by its members.

(2) The members of the advisory committee, while attending conferences, hearing, or meetings of the advisory committee or while otherwise serving at the request of the Chair shall each be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code, including travel time, and while away from their homes or regular places of business shall each be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

Mr. CRAIG. Mr. President, amendment No. 3795 to the Interior appropriations bill deals with the U.S. Forest Service's proposed roadless initiative. My amendment would earmark $1 million from the Forest Service's timber sales account and direct the Secretary of Agriculture to charter an advisory committee, under the provisions of the Federal Advisory Committee Act, to review the proposed rules and the accompanying draft environmental impact statement for the roadless area initiative. The advisory committee would be charged to provide the Secretary with advice on improving the proposed rule and the draft environmental impact statement.

My amendment would further prohibit the Secretary from spending any additional appropriations under this or any other act on the further development of the roadless area rule until the Secretary has received the report of the advisory committee.

Let me tell you why I am offering such an amendment. To date, the subcommittee that I chair, the Forests and Public Land Management Subcommittee, has held three oversight hearings on the roadless area initiative launched by our President last fall. I can tell the members of this committee unequivocally that this is the most slipshod rulemaking effort I have seen—the worst example—in over 20 years as a federally elected official.

Let me note an example we have found in an examination of the communiques with the White House. For example, this is a letter to Raymond Mosley, Director of the Federal Register. This comes from an officer within the U.S. Department of Agriculture.

She says:

Would you please correct our mistakes. In our haste to get the notice to the Register as quickly as possible, we failed to notice that the document heading was missing.

There has been such a phenomenal rush to judgment on this effort to fulfill the President's political agenda with this issue that all of the people have made mistakes and have had to go to the Federal Register's office to amend them. It is not unlike what we saw Katie McGinty do just this week with TMDL rules, where this Senate, 2 weeks ago, spoke to the fact that this rule ought to be delayed. The President withheld his signature of the MILCON appropriations bill, allowing the EPA to accelerate.

I suspect when we begin to examine the rules that have come out of EPA, signed by Katie McGinty yesterday, we will find the same kind of mistakes were made only because of a quick political rush to judgment to try to either circumvent the acts of Congress or to deny the public the kind of input that is important and justifiable in these kinds of procedures.

Among the numerous procedural violations of the Federal statute, I think the most egregious is the willful violation of the Federal Advisory Committee Act, an act that this administration has had trouble complying with many times. I could cite examples where other courts have ruled after the fact of the rulemaking that, yes, this administration had been in violation of FACA. Our oversight record and the executive branch's documents obtained during the oversight process provided a clear record of these violations.

Between May and July last year, a small group of environmental activists met with the White House, the Department of Agriculture, and Forest Service officials to develop what eventually became the proposed rule about which we are talking. All of these meetings were held behind closed doors with no notification provided to the public. Advice and materials were solicited from the environmentalists by executive branch officials in the form of legal memoranda, technical documents, polling data, media relations material, and paid advertising in support of the proposal. Here is an example: George Frampton, head of CEQ, from Mike Francis at the Wilderness Society. Through all of these processes, what they are suggesting is that we submit to you the necessary materials from which you can move to deal with this issue.

I think it is fascinating we find Mike Francis saying: I attach a draft of the ''letter to the chief'' concept that Charles, Mike, and I have worked on as an idea to provide historical linkage to the President.

Ironically, the very letter that George Frampton then sends to the Secretary of Agriculture proposing this rulemaking was a parallel letter, almost identical, word for word. Mr. Frampton, before our committee, did make reference to the fact that, yes, they were very similar, if not alike. That letter came from the Wilderness Society itself.

In many cases, these materials were used by executive branch officials in charge of developing the proposed rule. For example, the polling data was used by lower level officials to brief their superiors. In another instance, there was direct consultation between the outside groups and the administration to coordinate paid and earned media efforts.

Let me repeat that. Government officials sat down with outside groups prior to the rulemaking process and determined that they would launch a paid media campaign. There was even dialog within these memoranda that we gathered that suggested dates and times and the kinds of media markets we are talking about. Of course, I have referenced the letter to the Secretary from George Frampton, which is a mirror image of the letter that was proposed by staff at the Wilderness Society.

In response to the questions before my subcommittee, administration officials conceded that the issue of compliance with the Federal Advisory Committee Act was never raised in their meetings or deliberations, and counsel was never consulted on the matter.

This group of environmental advisers was in every way but one an advisory committee to the Federal Government. The one exception was that the committee was never chartered under the provisions of the Federal Advisory Committee Act. Had they been chartered, the composition of the committee would have had to have been balanced or at least more balanced than it was, and their meetings would have had to have been published and open to the media and to the public. In other words, the process of sunshine and public participation would have had to have been involved in this very process.

Those are citing just a few of the differences and what I believe are substantial violations. Left to its own devices, the administration will not correct the legal violations. They have been cited and examples have been given, both in my committee and at a comparable committee in the House. Lawsuits have been filed. Yet they will not respond. They are simply charging ahead to a pre-November deadline so that all of this fits into the political context that they chose to bring it into by the very announcement of the President last October.

I think, therefore, it is up to Congress to correct these violations and the resulting inequities. We must, unfortunately, intervene if we want to see the rule of law followed and direct the Secretary to follow the law and charter an advisory committee legally under FACA. Then a broader range of interests will have the opportunity afforded to a selected few with connections to high-level administration officials as insiders and friends. The advice they will offer to improve the proposed rule will be offered in the sunlight of public disclosure and ultimately cause the reaction, as it should, of public opinion. It will not be offered in secret, and it will not be offered behind closed doors as it was. This would restore the rule of law and sunshine in Government.

The reason I offer this is the magnitude and the significance of the issue. Some who are from States that are not impacted by large public landownerships or some who oftentimes think that environmental votes are just easy and free to make because they have little or no consequence to their constituency ought to react to this by saying that the administration stepped beyond the rule of law, clearly outside of the intent of what Congress designed in the Federal Advisory Committee Act.

This is the magnitude, the significance of what I am talking about. This chart is significant only as a visual. These red areas represent approximately 42 million acres of existing Forest Service wilderness. Every acre of this 42 million was heard before a House and Senate committee. It was a give and take between the delegates of the State and other Senators and Representatives. It was debated on the floor of the House and the Senate, and it was ultimately passed, all 42 million acres of existing Federal Forest Service designated wilderness. In other words, the public process was full.

What the President announced in October and what has been going on behind closed doors—with now a few public hearings—is the yellow or nearly 60 million acres of public lands now up for redesignation by this President.

What does that represent? It represents the whole State of Massachusetts and the whole State of Rhode Island and the whole State of Connecticut and the whole State of New Jersey and the whole State of Delaware and the whole State of Pennsylvania and the whole State of Maryland and the whole State of West Virginia. Sixty million acres of land are being decided by this President and a few of his administrators with Congress not speaking a word. Never before in the history of this country has an action of this magnitude been taken without full public process and without action and participation on the part of the Congress itself.

What I am suggesting by my amendment is meager in relation to the impact of what is going on behind the doors of the White House and USDA and the Forest Service. I am asking for $1 million out of the forest road fund.

I am asking that the Secretary inform an advisory committee of independent people, and that they advise us on the fact that FACA was or was not violated. I think the significance here is, if the President had operated under the law, or we believed that he did, I may not be here on the floor; although, I probably would be because I am dedicated to a public process. I believe that what my colleagues did in the sixties—the Democratic Party—in causing all meetings to be open and public and registered, and being the primary authors of the act, I think that is the right thing to do because I think the public ought to be involved. That is why we are here today—to involve the public in something that represents all of these States, 60 million acres of the public's land and the ultimate future of how that land will be managed. That is what is important about this amendment.

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

Mr. CRAIG. Yes, briefly.

Mr. DURBIN. The Senator has made reference to the fact this is going to be an open, public process by this advisory committee. In the Senator's amendment, there is no reference to any public meeting by this committee. On page 2, line B(3), there is a reference that this advisory committee report will be available for public comment. That is the first use of the word ''public.'' There is no reference to the sunshine committee having any public hearings.

Mr. CRAIG. If I may answer, it is because this committee is formulated under FACA. Go to the Federal Advisory Committee Act and there before you will be all the terms by which this committee will be structured. So instead of listing page after page of documentation, I am simply saying that the Secretary will constitute a committee under FACA to make determinations as to whether the appropriate actions have been taken.

So the Senator is right; I didn't list all of those things. But you and I operate under the Federal Code. The Federal Code is there and that is why we have done that.

AMENDMENT NO. 3795, AS MODIFIED

Mr. DURBIN. Will the Senator yield for another question?

Mr. CRAIG. Just one more question, briefly.

Mr. DURBIN. I thank the Senator for that. It is almost like a debate on the floor. Will the Senator consider putting this language in: The advisory committee shall have public sessions, open for public review?

Mr. CRAIG. Most assuredly I will. I think the Senator knows exactly what I am saying. If he wants the guarantee that FACA will be used, I will be happy to restate it.

I ask unanimous consent that the words ''full public meetings'' appropriately be placed at the right stage of this. I will work to comply with that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3795), as modified, is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . REVIEW COMMITTEE FOR FOREST SERVICE RULES.

(a)(1) From the amount appropriated for ''Forest Products,'' a sum of $1,000,000 shall be made available until expended to the Secretary of Agriculture for the purpose of reviewing certain proposed rules concerning the planning and management of National Forest System lands referred to in paragraph (2).

(2) The proposed rules subject to this section are the proposed road management and transportation system rule, and proposed special areas—roadless area conservation rule published at 64 Federal Register 54074 (October 5, 1999) and 65 Federal Register 11676 and 30276 (March 3 and May 10, 2000), respectively.

(b) With the funds allocated pursuant to subsection (a)(1):

(1) The Secretary shall appoint an advisory committee in accordance with the Federal Advisory Committee Act and subsection (d) of persons knowledgeable, and reflecting a diversity of viewpoints, concerning issues related to the planning and management of National Forest System lands. The appointments shall be made as soon as practicable after the date of enactment of this Act.

(2) The advisory committee shall, with full public participation and open public meetings in accordance with the Federal Advisory Committee Act—

(A) review and evaluate the proposed rules referred to in subsection (a)(2) and their prospective implementation, particularly as to their cumulative effects and the manner in which they relate to each other, are integrated, and will function together, including any inconsistencies or conflicts in their goals, purposes, application, or likely results and determined whether and in what way they may be improved; and

(B) submit a written report to the Secretary describing the results of the review and evaluation of the proposed rules required by, and any recommendations for improvement of such rules determined pursuant to, subparagraph (A), including any supplemental or minority views which any member or members of the advisory committee may wish to express.

(3) The Secretary shall make the report of the advisory committee required by paragraph (2)(B) available for public comment and submit the report to the Congress, together with a written response of the Secretary to the report and the public comment on the report.

(c) No funds appropriated by this Act or any other act of Congress may be expended for further development or promulgation of the proposed rules referred to in subsection (a)(2) prior to 60 days after the date of submission to the Congress of the report of the advisory committee and the response of the Secretary pursuant to subsection (b)(3).

(d)(1) The advisory committee appointed pursuant to subsection (b)(1) shall have no more than 15, nor less than 9, members who may not be officers or employees of the United States. The Chair of the advisory committee shall be selected from among and by its members.

(2) The members of the advisory committee, while attending conferences, hearing, or meetings of the advisory committee or while otherwise serving at the request of the Chair shall each be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code, including travel time, and while away from their homes or regular places of business shall each be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I say to my good friend, Senator CRAIG, that under our Constitution this body was enacted to have two Senators from every State. I hope every State is concerned with what happens in other States. I will be the first to admit that it is very easy not to pay attention to the speech the Senator just made because, obviously, there are whole States—many of them—that don't have this problem because they have no vast public ownership in the midst of their cities, out in their countrysides, or built right up against communities, be it the Bureau of Land Management or the Forest Service. So there is a tendency not to pay attention when a couple of States come to the floor and show some very dire problems that exist in the management of the public domain.

I have a few issues today that won't all be raised on this amendment I will offer. But before the Interior bill is finished, I will talk about some very serious problems out in the Southwest, which is more than one State. Over the last 3 or 4 weeks, New Mexico has had its share and then some. So I want to talk about, first, a substitute that I am going to offer, which the distinguished Senator CRAIG understands I will offer. I hope we can vote on both his suggested amendment and the one I am offering as a substitute.

But I think we have come to the conclusion—he and I and others—that if we can pass the substitute today and have it go to conference with the distinguished chairman and ranking member supporting it in the manner that it will receive support in the Senate—which I think is rather overwhelming—we will be satisfied that that is a good day's work and something that is very important for the forests of our country, which many Senators don't know about because they don't have any public forests. But they can take it from a group of us that the forests of the United States, whether they are run by the Forest Service or whether they are run by the Bureau of Land Management, are in terrible shape today.

Of course, there are people in the country who can talk about how they got that way. But I say to my good friend from Illinois, I know he doesn't have time, but it would be a pleasure to take him out to some areas surrounding Santa Fe, NM, or the areas that our good friend, Senator FEINSTEIN, will talk about in her State, or that Senator BINGAMAN has observed as he toured Los Alamos. The fire there and the fire on the other side of the State took almost 30,000 acres. It would kind of pale in comparison to that incendiary on the top of the hill that almost burnt down Los Alamos.

Let me tell you the reason we are offering this substitute. It is because there is an emergency existing in our forests that has to do with cleaning up the forest so that we can lower the threshold for fire. Anybody paying attention to the 48,000 acres that burned around Los Alamos would quickly come to the conclusion that the forest was almost like a storage of gasoline on the ground in barrels, and that when a fire started, it was just like gasoline burning because we never cleaned the forest. All over the place were knocked down trees with debris and trees that were so close together that if they started burning, it was just like the wind. The wind was blowing at 35 to 45 miles an hour in both of our fires. With the hazardous waste on the ground that we never clean up because either we don't have enough money, or there are certain people in the country who fight even cleanup, where you take the small logs in the forest and you take the kindling that has been accumulating and take it out of there and either control burn it or let it be used by those who can find usage for that kind of a resource.

So we have a substitute today that is called the Hazardous Fuel Reduction Act. We are asking the Senate to find that an emergency exists out there in our forests. I am very pleased to say that a number of Senators concur that there is an emergency and that we ought to put some money up in the state of emergency and get on with cleaning up these forests.

I thank my cosponsors today. We have done this without a lot of work because I have to do this rather quickly upon my return from New Mexico, seeing that the city of Santa Fe, NM, could possibly burn because the community is in direct contact with the forest. The watershed for the city of Santa Fe, which many people like to visit, is right up in the mountains and is filled with kindling and with hazardous waste waiting to burn. So what I have done is ask a few Senators to join me today. I will quickly summarize what we are doing.

The Senators who joined me are from both sides of the aisle. On the Democratic side, we have Senator FEINSTEIN and my colleague, Senator BINGAMAN. On the Republican side, in addition to myself, we have Senators KYL and CRAIG. I am sure Senator CRAIG would quickly indicate with me that if we wanted to circulate it, we would get many more Senators. The point is, we want to get this disposed of on this bill and not cause a great delay for the two distinguished managers.

Let me say up front that we don't change any environmental laws. We have worked at this, and we have had everybody work at it. We have not modified NEPA and we have not changed any other laws of that type in this measure. This measure will allow the Secretaries of Agriculture and Interior to use all current authorities for fuel reduction treatments. It will give new authority for using grants and cooperative agreements for fuel reduction.

It is at the sole discretion of the Secretaries. There is nothing mandatory about it, that they can provide jobs to local people in the local communities for fuel reduction activities.

In my State—which might be different from California—there is a very huge built-up desire on the part of people living in the rural communities of New Mexico to want to join in partnership through their communities and put people to work helping to clean up the forests.

There is nothing in this substitute that says we are going to log the forests. Yet if there is an opponent who comes to the floor to argue against this by some who do not want it, they will

say it is just another way to log the forests. If anybody says that, read the amendment. I don't choose to read it today, but it does not do that. In cleaning the forest, they will cut some small logs, but it will be pursuant to a plan which will show that the primary reason for all of this is to get rid of some of that hazardous fuel that has been piling up waiting to be burned.

In addition, the Secretaries will be able to include in some of this work nonprofits and cooperative groups, such as the YCC, or other partnerships and entities that will hire a high percentage of local folks. The Secretary has to publish a list.

The other things were options and discretionary. This one has to be published by September 30, identifying all urban wild land interfaces.

That is what we are worried about—not the whole forest, the interface, the communities at risk from wildfire, and, identify where fuel reduction treatment is going on, or will start by the end of the year. Then by May they will have to say why they have not and cannot treat the rest of these communities where the interface has occurred. For any reasons not limited to lack of funds, they will have to state why.

Finally, the Forest Service has to publish its cohesive fire strategy, which they have in draft form. They haven't published it. They will have to publish it and simply explain—not delay, but just explain—any differences in current rulemaking and how the new policy of closing roads could impact with firefighting. I know they don't want to do this.

The truth is that is the only way the public is going to find out how conflicts are occurring and whether they should be resolved or whether we should leave them lingering out there in a state of combat, ending up almost daily with lawsuits filed with one side trying to beat the other with some select group of environmentalists in nature most of the time filing these lawsuits.

I repeat that there is nothing that exempts environmental, labor, or civil rights laws. There is a lot of permissive language in here and very little that is mandatory.

But from what this Senator has seen of the forests after these two enormous fires, it is pretty obvious that the professionals will want to employ these techniques to get started where the interface of communities with forests have occurred to some major degree.

AMENDMENT NO. 3806 TO AMENDMENT NO. 3795, AS MODIFIED

(Purpose: To protect communities from wild land fire danger)

Mr. DOMENICI. Mr. President, I send the amendment in the nature of a substitute to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an amendment numbered 3806 to amendment No. 3795, as modified.

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

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

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE —HAZARDOUS FUELS REDUCTION

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

For an additional amount for ''Wildland Fire Management'' to remove hazardous material to alleviate immediate emergency threats to urban wildland interface areas as defined by the Secretary of the Interior, $120.3 million to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined by such Act, is transmitted by the President to the Congress.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

For an additional amount for ''Wildland Fire Management'' to remove hazardous material to alleviate immediate emergency threats to urban wildland interface areas as defined by the Secretary of Agriculture, $120 million to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* that the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined by such Act, is transmitted by the President to the Congress: *Provided further,* That:

(a) In expending the funds provided in any Act with respect to any fiscal year for hazardous fuels reduction, the Secretary of the Interior and the Secretary of Agriculture may hereafter conduct fuel reduction treatments on Federal lands using all contracting and hiring authorities available to the Secretaries. Notwithstanding Federal government procurement and contracting laws, the Secretaries may hereafter conduct fuel reduction treatments on Federal lands using grants and cooperative agreements. Notwithstanding Federal government procurement and contracting laws, in order to provide employment and training opportunities to people in rural communities, the Secretaries may hereafter, at their sole discretion, limit competition for any contracts, with respect to any fiscal year, including contracts for monitoring activities, to:

(1) local private, non-profit, or cooperative entities;

(2) Youth Conservation Corps crews or related partnerships with state, local, and nonprofit youth groups;

(3) small or micro-businesses; or

(4) other entities that will hire or train a significant percentage of local people to complete such contracts.

(b) Prior to September 30, 2000, the Secretary of Agriculture and the Secretary of the Interior shall jointly publish in the Federal Register a list of all urban wildland interface communities, as defined by the Secretaries, within the vicinity of Federal lands that are at risk from wildfire. This list shall include:

(1) an identification of communities around which hazardous fuel reduction treatments are ongoing; and

(2) an identification of communities around which the Secretaries are preparing to begin treatments in calendar year 2000.

(c) Prior to May 1, 2001, the Secretary of Agriculture and the Secretary of the Interior shall jointly publish in the Federal Register a list of all urban wildland interface communities, as defined by the Secretaries, within the vicinity of Federal lands and at risk from wildfire that are included in the list published pursuant to subsection (b) but that are not included in paragraphs (b)(1) and (b)(2), along with an identification of reasons, not limited to lack of available funds, why there are no treatments ongoing or being prepared for these communities.

(d) Within 30 days after enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register the Forest Service's Cohesive Strategy for Protecting People and Sustaining Resources in Fire-Adapted Ecosystems, and an explanation of any differences between the Cohesive Strategy and other related ongoing policymaking activities including: proposed regulations revising the National Forest System transportation policy; proposed roadless area protection regulations; the Interior Columbia Basin Draft Supplemental Environmental Impact Statement; and the Sierra Nevada Framework/Sierra Nevada Forest Plan Draft Environmental Impact Statement. The Secretary shall also provide 30 days for public comment on the Cohesive Strategy and the accompanying explanation.

Mr. DOMENICI. Mr. President and fellow Senators, many of you for a week or more watched on the nightly news as the forests surrounding Los Alamos National Laboratory, America's most renowned scientific laboratory, in spite of some of the negatives that have come forth with reference to security—that laboratory which has supplied us with the very best by way of science expertise and nuclear weapons expertise, not the second best, but the best for the entire era when it was America versus the Soviet Union—we watched each night as that fire got closer and closer to that laboratory. In fact, it burned some buildings, albeit none were critical to the future of the laboratory.

We watched it move literally huge distances at night when the winds were blowing. We watched it go from an adjoining forest called Bandelier National Forest. We watched it grow from a tiny spot where park people had impropitiously started a fire to clear away a piece of land. They started with their torches, and there it went out of control—48,000 acres, 440 residences burned to the ground. When you go back and look, you see that these forests were in desperate need of being cleaned so that the kindling on the surface would be at a much, much lower temperature.

That brought forth from this Senator and others a very significant cry: Let's get on with doing some of this cleanup. Let's give them additional authority in this bill and some emergency money. Let's see if we can get it done.

I thank the cosponsors. I thank the chairman for his attention and for his giving me confidence to offer this amendment because this is the appropriate vehicle. It is my hope that Senator SLADE GORTON will support this measure before we are finished.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to add my support to the amendment of the distinguished Senator from New Mexico. I think this amendment is both needed and timely. It would provide emergency funding to address what has become a very dangerous fuel buildup on millions of acres of national forests.

In April of this year, the General Accounting Office released a report entitled ''Protecting People and Sustaining Resources in Fire Adapted Ecosystems, a Cohesive Strategy.'' The underpinning of this report is this comment:

> The most expensive and serious problem relating to the health of national forests in the interior west is the over-accumulation of vegetation.

The report goes on to say that throughout much of the interior west, dense vegetation and dead material is continuing to accumulate. Each year in the absence of treatment, more forests become high risk, choked with dense accumulations of small trees and dead wood. These accumulations of fuel and more damaging fires are more dangerous and more costly to control, especially during drought years.

As the GAO report points out, many experts attach a sense of urgency to the management of these ecosystems. Because of the high proportion of the total area classified as high risk—in this report it is what is called class 3—combined with the fact that without treatment more vegetation will grow into these high-risk conditions, it is apparent that time is running out for a strategy to successfully avert high cost/high loss consequences.

That is the backdrop for this amendment. The amendment would provide emergency funding to move ahead on this program. Because dead and dying and small-diameter trees and thick underbrush have accumulated in our national forests, the possibility of serious and highly destructive forest fires have dramatically increased. Without any action on our part, it is going to continue to increase in the future.

Senator DOMENICI, several of our colleagues, and I share the belief that we have a true emergency on our hands. The Forest Service has identified 24 million acres of land in the continental United States as being at the absolute highest level of catastrophic fire risk. Almost fully one-third of this—7.8 million acres—lies in California. That is more than any other State.

Last year in my State—and we counted it forest fire by forest fire—over 700,000 acres of forest burned down. Several people lost their lives and dozens of structures were burned. Seventy-thousand of these acres were prime California spotted owl habitat in the Lassen and Plumas Forests.

Last year, $365 million was spent nationally by the Federal Government putting out fires and rehabilitating the land. Of this, $144 million, or approximately one-half of the U.S. total, was spent in one State; that is, California. I think the money would be much better spent preventing fire rather than cleaning up after that fire.

The entire Sierra Nevada mountain range national forests continue to be classified as the highest fire risk. This includes the newly designated Sequoia Monument, over 361,000 acres. It includes the Plumas and Lassen Forests in and around Quincy, where forest fires in the past have destroyed homes and businesses and spotted owl habitat. It includes areas such as the Lake Tahoe Basin, where one-third of the forests are either dead or dying. And the probability of major fire conflagration remains and grows each year. Such a fire would permanently destroy the water quality of the lake.

Through the turn of the 20th century, the U.S. population was predominantly spread out and agrarian. Forest fires burned naturally at fairly predictable intervals, and they burned hot enough to restrict encroaching vegetation and prevent fuel from loading up on the ground but not hot enough to kill old growths. Forests in the United States survived in this fashion for literally thousands of years.

By the middle of the 20th century, however, an increasing population began to occupy new urban wild land zones on what had once been forests. Suddenly, forest fires had to be put out or suppressed in order to protect the surrounding communities. It seemed intuitive to simply continue fighting fires as they arose and leave the forests untouched. So nothing was done to groom the forests, to remove dead and dying trees, to reduce undergrowth, to prevent subsequent conflagrations.

What is called ''fuel load'' has grown to astronomic proportions in many of our national forests. Dead and dying trees, which were no longer consumed by fire, lingered while brush began to build up at ground level. Newer, different species of trees, no longer stifled by natural fire, began to crowd out some of the older growth trees. Forests became crowded and severely fire prone.

Anyone who wants to look at that should get a copy of this report. On page 23 of the report it points out how our forests have changed in species composition and forest structure. The first picture taken is the forest in 1909. We see old growth trees; we see them spaced; we see very little vegetation on the ground. That is because there had been these hot, fierce fires in the past.

Next is a 1948 photo of that same part of the forest. We see changes. We see changes in the species composition, the structure, as fire had been excluded for many years.

In a picture in 1990, the area is totally dense and we cannot see through it. At that time—and most of our forests are like this now—we had an overabundance of vegetation. This stresses the site and predisposes the area to infestation from pests, disease outbreaks, and, of course, catastrophic fire.

That is where we are today.

It is evident to me that the Forest Service's decade-old policy of fire suppression has failed. It is time to look anew at how we can better manage our forests.

In California, for example, fire-intolerant Douglas and white fir have grown underneath old growth ponderosa pine. What is the result? The newer firs, which are not resistant to fire, create potential fuel ladders that permit a fire to reach the top, or what is called the crown, of old growths for the first time. Old growth pine which previously was impervious to fire, since rarely did a fire ever reach all the way up to its crown—with this new fuel ladder, fire threats to old growth pine have become very real.

Drought periods have further stressed the forests, predisposing them to infestations of pests, disease, and of course severe wildfire. The bark beetle has gone through the Tahoe forests like a forest fire. One can see miles of forests standing dead after an infestation. The dead trees remain, year after year after year.

California forests provide homes for dozens of endangered and threatened species, including the marbled murrelet and the spotted owl. It is an understatement to say that today the risk of fire is the most serious threat to these species. I really believe that to be true. It may be the most immediate short-term environmental threat our western forests face. That is why this amendment and this funding is so important. It is imperative that the Forest Service use all available tools to clean up the forests and reduce fire risks.

The one-size-fits-all approach of the Forest Service, I believe, must be changed. Each forest is different. Topography is different, geography is different, climate is different, soils are different, vegetation is different, the kind and type of trees are different, in different places throughout the United States. What is proper stewardship for a California forest may not be proper stewardship in Pennsylvania or Alaska or Montana. We have to look at the area and look at the fire risk differently. A flexibility of management must be employed to fix the problem. Dead and dying trees should be removed. Overgrowth should be thinned. Mechanical treatment and controlled burns must each be used separately and carefully in conjunction with each other. If we don't do this, incidents of serious fire will only continue to increase.

As I said, it is only a matter of time before a cataclysmic fire strikes Lake Tahoe, with potential loss of life, habitat, and property. Already, run-off and problems associated with erosion have

threatened Lake Tahoe's world-renowned crystal blue waters. The last time I was there, scientists told me that if we don't reverse the trend of eutrophication of the water, which removes its clear crystal blue look, in 10 years it will be too late and we might as well not bother. A serious fire could make this happen even sooner.

This amendment helps provide funding to remove dead and dying trees from Lake Tahoe National Forest where almost one-third of that forest today is dead or dying.

Last year, Senators REID, BOXER, BRYAN, and Congressman DOOLITTLE, Congressman GIBBONS, and I introduced the Lake Tahoe Restoration Act to authorize the necessary funding to deal with this problem. It is very timely that this bill will be marked up by the Senate Energy and Natural Resources Committee on Thursday and has already been marked up at the subcommittee level in the House.

The Domenici-Feinstein amendment could be used in that forest. It could almost be used in the Quincy area. In 1998, Congress overwhelmingly passed the Quincy Library Group Project.

This legislation authorized a 5-year demonstration project based on the forest management plan assembled by the Quincy Library Group, a coalition of local environmentalists, public officials, timber industry representatives, and just plain concerned citizens who came together in the Quincy Library so they could not yell at each other, to resolve longstanding conflicts over timber management of national forests in the area.

The project, which is only a pilot, is to see if there is not a better way to manage our forests by combining strategic fuel breaks with selected mechanical thinning and controlled burn. I have had some disagreements with the Forest Service in the past over Quincy, but I believe the project is back on track and I am determined to see, if I can, that funding is appropriated to complete the project to the letter of the law.

I want to quickly speak about one other thing. One of the possibly most cataclysmic fires could occur in the newly designated Sequoia National Monument. This is about 366,000 acres. Once the monument was declared, two timber mills closed down. I have been working with the community in that area to be able to put forward a removal of hazardous fuels. These trees are the largest trees in the world. Around these large trees have built up this dense underbrush, this fuel load that I have spoken about. If this is not removed, this underbrush creates the kind of fuel ladder that can effectively destroy the Sequoias.

The State of California additionally has prepared an adaptive management plan and had been working in the Sequoia area. What they showed was, as you clear certain limited areas around the giant Sequoias, that the giant Sequoias actually grew bigger and grew fatter and were much healthier for it. It is my hope that over the next few years we can reduce the fuel loading on 24 million acres that the Forest Service has identified as being at this level 3. Level 3 is the most significant fire threat. Then focus on the other 18 million acres at jeopardy.

Let me just recount. One-third of all of the national forests at catastrophic fire level in the United States are in the State of California. It is the entire Sierra Nevada range, it is the Sequoia, it is part of the Plumas and Lassen National Forests, and of course the Tahoe National Forest. There is, indeed, a lot to be done if we are not only to protect our endangered species but also protect the property and the people who live in these areas as well.

I think Senator DOMENICI's legislation is timely. It is well thought out. I think making this an emergency and moving in the class 3 areas and being able to remove this underbrush is a major step forward in prudent forestry management all throughout the West.

I thank the Senator. It was a delight to work with him. I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Idaho.

Mr. CRAIG. Mr. President, I will take a few moments to clarify where we are because I think some of our colleagues are slightly confused as to the amendment I offered dealing with the roadless area review and the FACA committee process, and the amendment our colleague from New Mexico has offered, and the Senator from California has just spoken to, dealing with fuel reduction in our forests.

There is no doubt, what I was attempting to do dealt specifically with the roadless area rule specific to whether there had been a violation of the Federal Advisory Committee Act. I was asking the Secretary to formulate an advisory committee to review that.

I had visited with Senator DOMENICI and several things came together that I think are important for us to deal with in the immediate. First of all, there have already been two lawsuits filed against this administration on the Federal Advisory Committee Act process as it relates to the roadless area review process. We believe a judge will make a decision on those two lawsuits, as to their validity and their ripeness, by mid-August. What is important here is for the courts to clarify whether FACA, as a law, is either real or dead letter.

Let me explain that. This administration has been accused and found in violation of FACA on several occasions. But the problem is, once the court has made that determination, the rule was already on the ground. So it is like they violated the law, but so what. The process is over with.

What the court will decide this time is, Is FACA a law that should intervene prior to a final rule and cause an administrative agency to change its course of direction or action prior to a final rule? That is what will happen in August.

I have decided it is important we do not get in front of that ruling by the courts. I think it is very important for this Congress to know whether the law it crafted, known as the Federal Advisory Committee Act, is a dead letter or if it is operative. Right now, based on findings, it is a Catch-22: Yes, they violated the law but so what; the rule is already in place.

That is not the intent of Congress. The intent of Congress is to cause a cause of action change in a rulemaking process if the Federal Advisory Committee Act has been violated.

Then enters the Los Alamos fire and Senator BINGAMAN and Senator DOMENICI trying to resolve that particular crisis of bad policy and bad decision-making coming together to not only create a catastrophic environmental situation but also ultimately to cost the taxpayers of this country $1 billion, or somewhere near that. That is the tip of an iceberg of a current forest health problem to which the Senator from California has spoken so clearly.

What the Senator from New Mexico and the Senator from California saw, witnessed, experienced, with hundreds of lives and hundreds of families and lives displaced——

Mr. DOMENICI. Thousands.

Mr. CRAIG. Is the nature of a catastrophic event that is in the nature of forest health.

We now have 22 million acres of our forested lands in crisis because of the fuel loading that has been talked about because of a management style of the last 50 years. Yet there seems to be no desire to deal with this on a constructive, environmentally positive basis that begins to remove that fuel.

The amendment of the Senator from New Mexico, of which I am now a cosponsor, which is a substitute offered to my amendment, goes at this problem in a very real and direct way. That is why I think it is so important that we move forward. I have been advised—and I agree—we should allow the courts to act on the Federal Advisory Committee Act. We will find out whether we have a real law or whether we have a false law; whether it works or it does not work. We will know that by mid-August. If they rule otherwise, we have either to come in and revise it or I think the Congress should act and intervene against the President in his rulemaking process, outside the public policymaking process of the Congress itself. But in the meantime, there is no question in my mind, with my activities, looking at the U.S. forest-managed lands—last week I was in Great Falls, MN. Last year, on July 4, they had a 472,000-acre blowdown. There are fuel loading problems in that State and every other State in the Nation that has public forested lands, that are phenomenal in their nature.

Let me explain. The Senator from New Mexico, Mr. DOMENICI, talked about literally having barrels of gasoline on the ground, in equivalent Btus of fire capability. It is believed that in

these areas, 22 million acres, at least at the top of the stack, that fuel loading equivalency is nearly 10,000 gallons of gasoline per acre in equivalent Btu or firepower.

Yet our Forest Service and this administration choose not to do anything about it. If we are good stewards of the land, we will not allow the stand-altering, environmentally crazy policy of catastrophic fire of the kind in the forests of New Mexico and the kind that are burning across the West today to be the policy of the management of our forests.

I would be the first to tell you we ought to reenter fire as a management tool of the ecosystems of our forests, but fire ought not enter an acre of land that has 10,000 gallons of gasoline stored in the form of slash and dead and dying timber in equivalent Btu's. That we cannot tolerate, or it will truly destroy the land as we know it, the environment as we know it, the riparian areas as we know them, and certainly habitat for any wildlife, let alone any kind of constructive management that would provide the needed fiber for our public in home building, paper, and so many materials we have wisely used our forests for over the years.

I support Senator DOMENICI, Senator BINGAMAN, and Senator FEINSTEIN as a cosponsor of this substitute. It is critically important.

In closing, in the substitute there is an important analysis, and it is an analysis that deals with the roadless problem. If the amendment of the Senator from New Mexico becomes law, it will cause the Forest Service to develop a cohesive strategy for protecting people and sustaining resources in fire-adaptive ecosystems; in other words, a fire strategy to deal with these kinds of fuel loadings. It would then have to place that strategy against the other rulemaking processes that are underway.

One of those rulemaking processes is the roadless area review or the roadless area protection proposal, to see whether that proposal denies the Forest Service the ability to manage these lands to protect them from catastrophic fire. I find that an important test and a necessary analysis of where we are going and how we want to manage these lands.

It also causes them to look at the areas of concern of the Senator from California—the Sierra Nevada framework and the Sierra Nevada draft plan environmental impact statements. All of those deserve to be examined in light of the fire situation we have on these public lands at this moment. We cannot idly sit by and watch hundreds of thousands, if not millions, of acres a year burn in wildfires, destroying wildlife habitat, destroying fiber that could be constructively used and, most important, dramatically altering the ecosystems of those areas that embody these catastrophic fires.

I support the substitute. It is important we stay in focus on the Federal Advisory Committee Act. The courts will rule in August, and then Congress will be able to act according to that ruling if, in fact, the courts have decided the Federal Advisory Committee Act is a dead letter in public law.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, I commend my colleague, Senator DOMENICI, for this amendment and indicate I am very glad to be a cosponsor of it. It is an important amendment which is much needed in my State and throughout much of the country.

The problem has been well described by Senator DOMENICI, Senator FEINSTEIN, Senator CRAIG, and others. I do not need to elaborate on that to a great extent, except to say there are many communities in our State of New Mexico which genuinely feel threatened because of the fact that they are adjacent to our national forests and the forests have been allowed to build up underbrush in a way which makes them a fire hazard—communities such as Santa Fe and Los Alamos, which have been mentioned, Ruidoso, Cloudcroft, and Weed. I know my colleague was visiting with citizens in the small community of Weed, NM, about this very issue. There is no question the time has come when it needs to be addressed, and this amendment will allow us to do that on an emergency basis. It is, as I said before, much needed.

Let me give a little background. Even before this year's catastrophic fires, which have really been a wake-up call to all of us about the significance of this problem, particularly the fire at Los Alamos, the Cerro Grande fire, but the Scott Able fire in the southern part of New Mexico, the Cree fire in the southern part of New Mexico, and the Viveash fire in northern New Mexico—we have had a series of fires. Over, I believe, 65,000 acres in my State have burned so far this year. That does not begin to approach the number of acres perhaps in California, as cited by the Senator from California, but it is a great many acres for our State considering the amount of forests we have. Well over 400 homes have been destroyed in our State. So the problem is very real.

Last year, in the first session of this Congress, I was very pleased that, on a bipartisan basis, Senator DOMENICI and I cosponsored a bill, S. 1288, entitled the Community Forest Restoration Act which attempted a demonstration project in New Mexico to begin dealing with this problem of the urban wild land interface, to begin thinning of forest areas near these communities.

In putting this legislation together, we were able to get the cooperation not only of the communities themselves but of many of the groups which take a great interest in the health of our national forests, including several of the major environmental groups. I thought this was major progress. The bill passed the Senate unanimously. It went to the House of Representatives. It has been marked up in subcommittee. It will go to the full committee next week.

This legislation was very small. It was a demonstration project. It was aimed only at New Mexico communities, but it set a good precedent for the type of thing we are talking about, where the Forest Service and the other Federal land management agencies could make grants available to community groups to deal with this problem in a very real and responsible way.

I particularly appreciate the statement Senator DOMENICI made in his presentation that this amendment, to provide substantial additional funding to the land management agencies to deal with the problem, does not involve any change in environmental laws.

Also, this amendment does not involve any change in NEPA, the National Environmental Policy Act. This does not waive that law. This amendment is consistent with those laws. We are providing resources and directing that a substantial effort take place to deal with this problem around the communities that are adjacent to our national forests. It is very important that this happen.

I want to have printed in the RECORD three documents that are important as background. One is a letter that the New Mexico delegation sent to Mike Dombeck, the Chief of the Forest Service, on May 19 of this year, urging that the Forest Service come forward with a proposal for how they will begin to address this problem. The second document is a response by Chief Dombeck to me on the subject. And the third is a followup response to Senator DOMENICI from Chief Dombeck, also alluding to what the Forest Service thought they could do to address this very real problem.

I ask unanimous consent that these three letters be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. BINGAMAN. Mr. President, let me mention one other aspect of this which I think is significant, and that is the Forest Service has a program called a Cooperative Fire Protection Program which they try to use to educate people who own homes in or near the forests and also to work with people who have private homes in our forests, that are private property, so the benefits of some of this clearing, some of this thinning we are talking about can also be realized by the people who have those homes, and those homes can be better protected as a result.

One thing that became obvious to me as a result of the Los Alamos fire was that there had been a thinning that had taken place around the laboratory itself, around many of the structures of the Los Alamos National Laboratory; and because of that, because of that thinning activity, there was a dramatic

reduction in the fire risk to those facilities. We had much less damage there than we wound up having in the town of Los Alamos, where, of course, no similar thinning or no similar fire risk reduction activities had occurred.

I think it is very important that we try to take what we have learned about how to reduce the risks of fire and apply that in a responsible way, and do so as soon as possible.

For that reason, I am very pleased to see this amendment being considered. Again, I compliment my colleague for proposing the amendment.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE,
Washington, DC, June 16, 2000.

Hon. PETE DOMENICI.
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DOMENICI: With the Senate in final stages of completing the fiscal year 2000 emergency supplemental appropriation, I want to provide you with the information you requested on Forest Service capability to significantly reduce the risk of catastrophic fire in wildland-urban interface areas.

I know you agree that the tragic fires in New Mexico and those currently burning in Colorado, are focusing our attention on the critical need to reduce hazardous fuels throughout the national forests and particularly areas adjacent to urban interface areas. The emergency supplemental appropriation gives us an opportunity to immediately take action to avoid similar fire disasters in the future.

Enclosed is information identifying agency capability to respond in the immediate and near future based on estimates for completing environmental assessment work. This work can be accomplished within existing authorities. We have established projected implementation based on the date that all planning under the National Environmental Policy Act, Endangered Species Act and other statutes will be completed:

Acres:	Implementation date
59,722	[1]
189,098	12/31/2000
291,575	09/30/2001

[1]Currently ready.

I want to be sure that as the supplemental bill moves through the appropriations process, you have all the information you need to provide focus on the need to address this critical issue without letting the legislation get overburdened and consequently threatened by other agendas. My staff and I are ready to respond in order to assure you have all necessary information available.

MIKE DOMBECK, *Chief.*

WILDLAND URBAN INTERFACE HAZARDOUS FUEL TREATMENT PROJECTS

Listed below are the acres by Region grouped by the date all NEPA, ESA, review, and other planning actions will be completed and the projects will be completed and the projects will be ready for implementation. For the last two groups, planning is well underway and may be completed prior to the date listed. Includes all costs for implementation and monitoring.

Region	Acres	Implementation cost
ALL PROJECT PLANNING COMPLETED—IMPLEMENTATION CAN BEGIN IMMEDIATELY		
1	14,483	$2,425,000
2	5,000	1,400,000
3	16,085	3,981,000
5	8,700	2,267,000
6	3,350	844,000
8	7,600	2,830,000
9	4,504	1,404,000
Total	59,722	15,151,000
ALL PROJECT PLANNING WILL BE COMPLETED BY 12/31/2000.		
1	34,150	2,050,000
2	7,000	1,800,000
3	56,126	19,380,000
5	4,869	2,866,000
6	35,969	4,787,000
8	27,970	9,422,000
9	23,014	3,106,000
Total	189,098	43,411,000
ALL PROJECT PLANNING WILL BE COMPLETED BY 9/30/2001		
1	34,150	9,415,000
2	18,500	5,125,000
3	140,270	21,201,000
5	25,215	6,964,000
6	52,535	7.315,000
8	9,080	3,335,000
9	11,825	3,401,000
Total	291,575	56,756,000

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, DC, May 23, 2000.

Hon. JEFF BINGAMAN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: Thank you for your letter dated May 19, 2000. Like you, I am deeply concerned about the potential for unnaturally intense, catastrophic fires and their impact on communities in New Mexico and throughout the United States. The events of recent weeks make clear that we cannot stand by idly and allow the health of our forest and grassland ecosystems to deteriorate to the point that they cannot provide basic ecological services and pose a risk to the safety of our communities.

Unhealthy forest ecosystems evolved through decades of past management and fire suppression. Restoring their health and resiliency and protecting our communities from unnaturally severe wildland fires will take many years. That reality, however, is no excuse for inaction.

If emergency funds were made available, we would limit their use to the urban-wildland interface or within designated municipal watersheds that are determined to be at highest risk of unnaturally occurring catastrophic fire. Our activities would focus on the least controversial areas by concentrating on restoring fire-dependent ecosystems and reducing fire risks adjacent to wildland urban interface areas. We would define urban-wildland interface in one of the two following ways:

Where urban or suburban populations are directly adjacent to unpopulated areas characterized by wildland vegetation. (Urban and suburban areas are defined as places where population densities exceed 400 people per square mile of area.)

Where people and houses are scattered through areas characterized by wildland vegetation. These are areas where population density is from 40 to 400 people per square mile.

Treatment methods to minimize fire risk and restore land health in the interface areas would include: thinning, removal or over-accumulated vegetation and dead fuels, prescribed fire, and fuel breaks. All required project level planning, monitoring, consultation, and implementation would be included in our vegetation treatments. Our objective would be to leave forested areas in the interface in a range of stand densities that more fully represent healthy forest conditions.

Priority for treatment will be given to interface areas that historically experienced low intensity, high frequency fire and where current conditions favor uncharacteristically intense fires.

Projects may also be undertaken in other fire regimes where threats to populations or their water supplies are acute.

We would ensure that additional appropriations are spent in a manner that maximizes on-the-ground accomplishments and minimizes controversy, delay, and litigation. For example, projects would be implemented using service contracts that hire local people, volunteers and Youth Conservation Corps members, or by using Forest Service work crews, where appropriate. Where tree removal is necessary to reduce fire risks, these emergency appropriations would only be used to remove trees that are under 12 inches in diameter. Merchantable material that is generated as a byproduct of vegetative treatments could be sold under a separate contract to local industry or the public. We must also monitor our progress and report our results to Congress and the American people to demonstrate our accountability.

The type of program I describe will lead to demonstrable results and improvements in the near future. I must make clear, however, that a one-year emergency appropriation will not remedy what ails our forests and threatens our communities. We must fund and build a constituency for active forest restoration based on ecological principles. For example, we can partner with local communities to reduce fuel hazards, improve building codes, and suggest fire resistant landscaping to reduce fire risk. Such efforts can reduce insurance premiums, prevent wildland fires from destroying homes, reduce costs associated with fire suppression, and protect our treasured forests.

We expect to soon release a strategy to more broadly address wildland fire risks across National Forest System lands. We need a sustained level of funding to ensure that we can restore fire-dependent ecosystems and protect the lives and property of people in our communities. Restoring our forests not only makes our communities safer, it provides jobs—high paying, quality, family wage jobs.

Thank you for your continued interest in the health of our lands and the well-being of our communities.

Sincerely,

MIKE DOMBECK, *Chief.*

WASHINGTON, DC,
May 19, 2000.

Dr. MICHAEL DOMBECK,
Chief, Forest Service, U.S. Department of Agriculture, Washington, DC.

DEAR MIKE: As you know, fires in New Mexico over the past week have burned more than 65,000 acres in New Mexico and destroyed well over 400 homes. While we commend Forest Service efforts to assist in protecting the lives of New Mexico's citizens, their property, and the public's resources, we are deeply concerned about the potential for future, unnaturally intense, catastrophic fires and their impact on communities in New Mexico and throughout the West.

The events of the past two weeks in New Mexico demonstrate that we cannot simply allow ''nature to take its course.'' The risks to our communities, Native American resources, and public resources are too great. We must take action to protect our communities and the forest resources upon which they depend. Inaction is not an option.

In order to provide adequate, or potentially additional, funding to assist the Forest Service in proactively addressing the risk of catastrophic wildland fires that can threaten communities in the West, as well as the health of our lands and waters, we need your assistance. A good first step in providing us with the information we need is the release of the Forest Service report on the subject currently under review by OMB.

In addition, we would like you to address what actions the Forest Service can undertake to minimize catastrophic fire in the wildland-urban interface; identify appropriate size limitations for thinning of trees; and provide information about specific contractual arrangements that should be employed to most effectively address the risk of wildland fire in the urban-wildland interface.

Thank you for your continued interest in the safety of communities and the health of our lands and waters. We look forward to your prompt response.

Sincerely,

JEFF BINGAMAN.
PETE DOMENICI.
TOM UDALL.
HEATHER WILSON.
JOE SKEEN.

Several Senators addressed the Chair.

Mr. SESSIONS. Mr. President, I would like to call up amendment No. 3790.

Mr. GORTON. This one is not done yet.

Mr. DOMENICI. I believe we have not finished this amendment yet.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be allowed to call up my amendment and to then debate it at a later time.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. Mr. President, if the Senator would yield, I think there are just two more relatively brief speakers, and we can then finish this amendment.

Mr. SESSIONS. I would set this amendment aside, but I have to go. I could come back, I suppose.

Mr. GORTON. Then, if it is brief, why don't you go ahead, I suppose.

The PRESIDING OFFICER. Is there objection to the Senator's unanimous consent request?

The Chair hears none, and it is so ordered.

The Senator from Alabama may proceed to call up his amendment.

AMENDMENT NO. 3790

(Purpose: To prohibit the use of funds for the publication of certain procedures relating to gaming procedures)

Mr. SESSIONS. Mr. President, I call up amendment No. 3790.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mr. GRAHAM, Mr. ENZI, Mr. LUGAR, Mr. VOINOVICH, Mr. GRAMS, Mr. REID, Mr. INHOFE, and Mr. BAYH, proposes an amendment numbered 3790.

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

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

The amendment is as follows:

On page 225, between lines 11 and 12, insert the following:

SEC. . None of the funds made available in this Act may be used to publish Class III gaming procedures under part 291 of title 25, Code of Federal Regulations.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the debate on this amendment be set aside pending the time that Senator CAMPBELL and others would be here to debate.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be set aside until such time.

Mr. SESSIONS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, for some time now the Senate has been debating, somewhat interchangeably, two issues; one involves protection for roadless areas and the other involves the important issue of fire prevention.

I would like to take just a minute or 2 to discuss each one of these so that it is clear where we are with respect to this debate.

The original amendment offered by the senior Senator from Idaho, Mr. CRAIG, my longtime colleague on the Forestry Subcommittee, would have, in effect, presented the Senate with a referendum on the President's roadless proposal, a major environmental initiative, certainly supported by millions of Americans. There have been more than 180 public meetings on this roadless initiative, and more than 500,000 comments. This is certainly the centerpiece of the President's environmental agenda.

So had we been presented here in the Senate with an up-or-down vote on this roadless proposal, despite my friendship with the Senator from Idaho, I would have had to oppose that original amendment strongly. To me, the President's proposal on roadless areas makes sense for one reason: Protecting additional unspoiled areas can produce gains for fish runs across this country, as well as improving habitat and watershed quality. These environmental gains outweigh the benefits of commercial development on these particular lands.

A lawsuit is pending in Federal court concerning the FACA issue as related to the roadless initiative. Certainly Congress should allow the judicial process to operate without interference.

Several of my colleagues have noted that oral arguments are going to be heard on August 7 in that lawsuit. There will be plenty of time for the Senate to act with respect to any issues involving the Federal Advisory Committee. But I say, as the ranking Democrat on the Forestry Subcommittee, I think it would be a great mistake for the Senate to, in effect, ashcan the President's roadless area proposal. Fortunately, the Senate is not going to be asked to vote up or down on that issue today.

I have, for some time, along with a number of other colleagues, pursued an effort to modernize our policy with respect to both road and roadless areas. There is much that we can do that protects both habitat and also resource-dependent communities. But to have had a referendum on the President's roadless area proposal today, with a lawsuit pending, and with millions of Americans in support of that proposal, would have been, in my view, a very serious mistake.

Now we are presented with a substitute proposal, initiated by the two Senators from New Mexico, involving fire prevention. At this point, we are talking about something very different than the original Craig proposal. We are talking about an effort to protect homes and businesses, and, by the way, habitat as well.

I want it understood for the record that this amendment is not going to affect the completion of the roadless area initiative. That is why I am pleased to be able to say that I intend to support this fire prevention initiative. Again, this new amendment does not affect the roadless area proposal.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I compliment my friend from Oregon because everything he said speaks for me.

I will be brief, but I think it is important that I put some comments into the RECORD because I have a sense that perhaps Senator CRAIG may be back with a similar amendment at another time, and I think it is important to lay the groundwork for why I would not support it at that time.

I do support what Senators DOMENICI and BINGAMAN have brought us. I compliment them for bringing this to us. I know they have been very careful not to do anything in this amendment that would, in fact, stop any environmental rules from going forward, in particular the roadless rule that we are in the midst of promulgating.

I will be supporting the Domenici-Bingaman amendment. I am pleased in the way it has been presented. It is, in fact, a substitute for the Craig amendment.

Let me ask my friend from New Mexico, does he want to have the floor?

Mr. DOMENICI. No, thank you, I say to the Senator.

Mrs. BOXER. All right.

Mr. President, I have such a good feeling about Interior appropriations bills. My friend, Senator BYRD, and Senator DOMENICI and Senator GORTON have worked hard on this Interior bill.

For California it is so important. It is wonderful. I just got a reminder note from Senator BYRD on the wonderful things in this bill, for which I thank my colleagues on both sides of the aisle. Funding for the historic Presidio, for Lake Tahoe, so many others, the Manzanar historical site. For those of you who may not remember, it was the site where Japanese-Americans were essentially interned. We are going to make a monument out of it.

So when I see an antienvironmental rider come on this beautiful bill, it is always distressing because, to me, the Interior appropriations bill, it seems to me, should be a positive statement of good things that we are doing for the environment.

So when I heard a rumor that Senator CRAIG would offer his amendment, I decided at that time I would try to talk the Senate out of adopting it. And this has become unnecessary.

So let me quickly say, I am pleased that what is before us does nothing to stop this roadless policy from going into effect.

As Senator WYDEN has stated, there have been countless meetings on it. The fact is, the roadless areas are the remaining gems of a forest system that has been degraded by centuries of logging and other types of heavy use. If we look at the big picture, we are really talking only about setting aside 2 percent of all our land in this country as roadless areas. What an important thing that is for us to do because it will in fact preserve our beautiful, priceless environment for future generations and preserve the fishing industry, stop erosion. It is a very important environmental initiative.

So there is no misunderstanding, we know there are many inroads into these roadless areas. In the next 5 years alone, we are going to see more than 1,000 miles of roads inventoried. We are moving into these pristine areas.

At some point, we have to say enough is enough in terms of destruction of our natural wilderness and our wonderful natural heritage. I think the U.S. Forest Service has taken a bold and positive step forward with its effort. I am very glad that nothing in this bill will stop them.

Let me cite a couple of poll numbers. A recent poll done by some pollsters from the other side of the aisle found that 76 percent of the public supports the protection of roadless areas, and in my home State, asking Republicans and Democrats that question, 76 percent of Californians support roadless policies.

We have editorials that I ask unanimous consent to have printed in the RECORD.

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

[From the San Francisco Chronicle, Oct. 15, 1999]

CLINTON SEEKS LEGACY OF FOREST PROTECTION

In recent years, the Clinton administration has been pushing for a more balanced national forest policy, with a group of timber-oriented congressional leaders resisting every step of the way.

The administration's approach, under U.S. Forest Service Chief Mike Dombeck, was hardly radical. It was entirely consistent with the preservationist vision of President Theodore Roosevelt at the turn of the century when he greatly expanded the amount of national forest. It certainly jibes with the views of most Americans that conservation should get greater priority on public land.

President Clinton this week took a bold step toward cementing those values by protecting about 40 million acres of U.S. forest land from road building. The proposal would effectively halt logging and mining in those still-pristine areas. About 4 million of the acres are in California, including significant parts of the Sierra Nevada.

The timber industry, predictably, howled.

''These are not the king's lands, they are the serfs' lands, they are the people's lands,'' said Sen. Larry Craig, R-Idaho, arguing that Congress should decide forest policy. In a letter to Dombeck, he argued that the Clinton plan would limit forest access.

The Clinton plan will not curtail access to any of the 380,000 miles of logging roads in national forests—about eight times the length of the interstate highway system. These roads, typically dirt trails wide enough to accommodate a tractor-trailer, have often contributed to erosion, creek sedimentation and other environmental problems.

This modest but essential effort to curtail further intrusion into the nation's forests will not spell doom and gloom for the timber industry. Less than 5 percent of timber cut in the U.S. comes from national forests, and less than 5 percent of that volume comes from roadless areas.

It is important to note that the Clinton plan is not a done deal; it is the first step in a regulatory process that could take more than a year and most certainly will be influenced by public input.

Notably missing from the president's eloquent call to conservation was a commitment to include Alaska's Tongass National Forest, the nation's biggest and the heart of the world's largest remaining expanse of coastal temperate rain forest. Tongass has been a major battleground for lawsuits and legislation over logging in an area with healthy populations of grizzly bears, bald eagles and salmon.

These are the people's lands, natural treasures, and Americans who care about conservation must ensure their voices are heard in what promises to be a contentious process.

[From The Sacramento Bee, Oct. 22, 1999]

FIGHT OVER FORESTS—WHICH PUBLIC LANDS SHOULD REMAIN ROADLESS?

President Clinton used the Shenandoah Valley as the vista for his recent announcement to seek permanent protections for up to 40 million acres of pristine, roadless national forests. A more appropriate backdrop would have been somewhere between a rock and a hard place. Seeking to manufacture a legacy of forest protection in his remaining months in office, Clinton faces an uphill struggle.

The president and Congress are supposed to work together to pass laws that protect forests as wilderness. This is how approximately 34 million acres of the 191 million acre national forest system are now officially protected with the wilderness designation. These 40 million acres that are the target of Clinton's new effort are not now legally designated as wilderness, yet function in nature as such. There are no roads on these lands—each of 5,000 acres or greater—and in many cases they are adjacent to a designated wilderness area.

The Republican-led Congress, beholden on this issue to an extractionist ideology, is simply incapable of working with the president on wilderness issues, with the sole notable exception of an emerging bipartisan effort in western Utah. A compromise that could serve multiple interests—additions to wilderness areas in return for additional certainty on other lands for timber harvests—is not possible in this political environment. As Republicans use riders attached onto appropriation bills to thwart forestry planning efforts, many environmental groups have taken up the call for no logging whatsoever on any public lands. The average American, meanwhile, uses more paper products than anybody else on Earth.

As Clinton wades into this ideological war, he has few options. Legally, the strategy with the best chance of permanency is to embody new protections for roadless areas within an environmental impact statement that offers a scientific basis for the action.

The strategy may prove to be a long shot. On forestry issues in the Sierra, for example, the administration has been unable since 1993 to finish an environmental impact statement that offers final guidelines on how to protect the California spotted owl. Courts, meanwhile, have stalled Clinton's logging strategy for national forests in the Pacific Northwest. Environmental groups successfully challenged the adequacy of the environmental impact statements, which did not include surveys for certain rare species such as mollusks.

Ironically, the very legal techniques used by roadless advocates to challenge logging plans will be handy weapons to attack Clinton's roadless plan—if the Forest Service manages to produce the environmental documentation before he leaves office. There's not much time left to count mollusks on 40 million acres of roadless America. In the forests, the biologists better start counting. And in Washington, leaders on both sides of the aisle should contemplate a bipartisan approach to forestry policy.

[From the New York Times]

CLINTON'S LEGACY AS PRESERVATIONIST?

For someone who paid no attention to environmental issues during his first year in office, Bill Clinton may wind up with an impressive legacy as a preservationist. In addition to his earlier programs to restore the Everglades and to protect Yellowstone, the forests of the Pacific Northwest and the redwoods in California, the president recently set in motion a plan that would, in effect, create 40 million acres of new wilderness by blocking road building in much of the national forest.

In recent months, his secretary of the interior, Bruce Babbitt, has been exploring the possibility of additional action under the Antiquities Act of 1906, a little-known statute that allows presidents, by executive order, to protect public lands from development by designating them as national monuments. If used intelligently, the act offers Clinton a useful tool to set aside vulnerable public lands before he leaves office.

Because it allows a president to act on his own authority and without engaging Congress, the Antiquities Act is an attractive weapon to any president whose time is running out and who wishes to quickly enlarge his environmental record.

In 1978, President Jimmy Carter designated 15 monuments in Alaska, which in turn accelerated passage of a bill that added 47 million acres in Alaska to the national park system. Near the end of his first term, Clinton created the Grand Staircase-Escalante national monument on 1.7 million unprotected acres in Utah.

In the last 93 years, all but three presidents—Richard Nixon, Ronald Reagan and George Bush—have designated at least one national monument. There are now more than 100.

Congress has never revoked a designation, though it has the power to do so, and some monuments have become revered national parks, like the Grand Canyon. Yet Congress has never really liked the law because it so clearly gives the president the upper hand.

All it can do is rescind a designation, which is politically difficult. After Clinton's Grand Staircase-Escalante designation in 1996, a bill requiring congressional approval of any designation exceeding 5,000 acres passed the House, but died in the Senate.

Babbitt is considering a dozen sites. The largest is one million acres on the North Rim of the Grand Canyon. Others include the Missouri Breaks, along 140 miles of the Missouri River in Montana, and hundreds of thousands of acres in Arizona, Colorado, California and Oregon.

All the projects are worthy, but as a matter of caution he and the President need to winnow the list to sites most deserving of immediate protection. Western Republicans, complaining about a federal ''land grab,'' are looking for any excuse to revive their attack on the act, which has survived in part because it has been used sparingly.

Overuse could also divert support from even broader open-space initiatives, including what is expected to be another serious push to seek $1 billion annually in permanent financing for the Land and Water Conservation Fund.

Within these limitations, there is no reason not to use the act, a statute with an honorable history that has produced illustrious results.

[From the Ventura County Sunday Star, Nov. 7, 1999]

PRESCRIPTION FOR FOREST HEALTH PROBABLY WOULD KILL THE PATIENT

(By Arthur D. Partridge)

The Clinton administration's recent proposal to protect roadless areas in our national forests is already under attack in Congress. One often-repeated objection is that roads are needed for logging, logging is necessary for a healthy forest, and our forests are suffering a health crisis. As prescriptions go, this one verges on quackery.

The term ''forest health'' is so poorly understood and defined nowadays that it's virtually useless. When first coined, in 1932, it referred solely to insects and tree diseases. Now people use it to encompass fire, storms, or virtually anything. But all of the data, both from the Forest Service and studies by many forestry researchers including me, indicate there's been no change in the real condition of our forests, other than through excess and ill-advised logging.

In terms of disease and insects, there has been no difference in true forest health for at least 50 years. In fact, a report from the U.S. Forest Service indicated that between 1952 and 1992 the amount of damage from disease, insects and all other major causes—including fire—was less than 1 percent of the standing commercial timber throughout the United States. And the numbers stayed at those levels the entire time, with no ups and downs. The same thing is true of both public and private lands.

* * * * *

Unfortunately, this basic reality often gets distorted in order to accomplish some kind of cutting plan. In the Pacific Northwest, for instance, we hear that in many regions the Douglas fir is threatened by bark beetles. But when we go to those areas and investigate, we find that a significant problem just doesn't exist. There are some beetles, all right, but the overall beetle population is in decline and the amount of damage is extremely low. Of course if you only look for trees with beetles, you'll find them. But in the whole forest the mortality rates hover around the historical rates of 1 to 2 percent. And this is true of root diseases and other pests, of different species of trees, and in different areas of the country.

Claiming harm to forest health is merely an excuse to log, but logging in the roadless areas is plain foolishness. The reason they weren't logged long ago is that early loggers knew there was little worthwhile timber in these areas.

* * * * *

Widespread clearcutting has also brought changes in the water cycles, creating rapid runoff and melting during the spring, leaving little available water during the summer, when it's needed most. Even the local weather has been affected: If you change the structure of the forest, you change wind patterns and rainfall as well.

In spite of this, I'm more optimistic than I was 15 years ago. Back then, nobody would listen to such concerns. All they could think about was the product and not the results of producing that product. Now even the industry is more sensitive to what it's doing, and it's changing some logging practices.

We need to continue to improve the way we maintain our forests. If we cut timber, we have to do it more gently than in the past. And we have to stop using wrong-headed excuses like ''forest health'' to log in the few and fragmented remaining roadless areas that America still treasures. If we destroy such areas through needless incursion, we will leave our descendants far poorer than justified by the small immediate profits, and they will wonder what sort of physicians made such poor judgments about health.

[From the Central and East County Contra Costa Times, Oct. 26, 1999]

FORESTS NEED PROTECTION

President Clinton has directed the U.S. Forest Service to produce an environmental impact statement and develop a proposal that potentially will protect more than 40 million roadless acres of its 155 national forests and 20 grasslands. Reactions from the two most vocal sides insist Clinton has erred, but he is moving in the right direction.

The timber industry is angry about losing future access to these woods. Where will its product come from? Hmm. Well, probably the same place it comes from now—and that's not primarily federal forests. Only 5 percent of the annual timber load comes from national land and only 5 percent of that comes from areas that could come under protection. Besides, the 380,000 miles of road already in forests—more miles than the interstate system—will still be usable.

That the plan provides for only 40 million acres and only inventoried, roadless areas 5,000 acres or larger upsets many environmentalists, as does not including Alaska's Tongass Forest. The heart of the world's largest remaining expanse of coastal temperate rainforest, Tongass is under siege, its supporters feel. Logging does take place in specified areas, and efforts to increase cut levels in Tongass are already in progress. Supporters feel an urgent need for more federal protection and were intensely worried when this proposal that excludes Tongass was chosen by Clinton.

The plan also deals almost strictly with road-building; it will prohibit it, which hampers development. Environmentalists would of course like the regulation to stop logging, mining, many kinds of recreation and other exploitation.

Clinton went with what was the weakest of his choices of plans, particularly making no rule to protect wildlife, to avoid needing congressional approval. His is an effort to have something happen instead of nothing. Part of the proposal also calls for a 60-day (only about 45 days to go now) public review and comment process, and all sides are hoping your voice will make a difference on what the final plan becomes. (Send comments to: U.S. Forest Service-CAET, Attn: Roadless Areas NOI, P.O. Box 221090, Salt Lake City, UT 84122.)

We encourage you to support this effort. Only about 18 percent of the 192 million acres of federal forests are now protected from development. Roadless areas are reference areas for research, bulwarks against invasive species, and as aquatic strongholds for fish as well as vital habitat and migration routes for wildlife species, especially those requiring large home ranges. Tongass by merit of its uniqueness should be included in any plan that will protect it.

We also would like to see forest lands remain untouched where they can so that they will still be around for centuries to come and our children won't have to explain to their grandchildren what forests were.

Mrs. BOXER. These editorials are in favor of roadless protections. The two Senators from New Mexico have offered us a great service because they have essentially, by their amendment, stopped us from a very controversial amendment that was antienvironment, that the administration would have been very opposed to, and may well have caused a veto of this bill. I thank them again.

I say to my friend from Idaho, Senator CRAIG, I hope he will not bring this back to us. I think it would drive a wedge into the heart of our environmental heritage. I hope that will not happen.

I yield the floor.

Mr. KYL. Mr. President, I rise in support of the amendment to add $240 million to the budgets of the Bureau of Land Management and the Forest Service for fuels reduction on our public lands.

In April 1999, the General Accounting Office reported to the Congress that 39 million acres on the national forests in the interior West are at high risk of catastrophic wildfire. The GAO also stated in that same report to Congress that the ''most extensive and serious problem related to the health of national forests in the interior West is the over-accumulation of vegetation, which has caused an increasing number of large, intense, uncontrollable, and catastrophically destructive wildfires.''

As we've seen this summer on the Rim of the Grand Canyon in my state of Arizona, on the Hanford Reach in Washington State, in the community of Los Alamos, New Mexico, and now in Colorado and other western states, it's time to pay the piper. If we don't spend the money now to treat the forests and other public lands, mechanically and through the use of fire, we will pay later—and we will pay a lot more.

The National Research Council and FEMA have recognized wildland fires in California in 1993 and Florida in 1998 as among the defining natural disasters of the 1990s. The 1991 Oakland, CA fire was ranked by insurance claims as one of the ten most costly all-time natural disasters. And in terms of damage, the magnitude of these catastrophic fires was compared with the Northridge earthquake, Hurricane Andrew and the flooding of the Mississippi and Red River.

As the findings of these organizations reveal, we are setting ourselves up for costly and deadly disaster unless we act now and send money to the Forest Service and the Bureau of Land Management for hazardous fuels reduction in the wildland/urban interface.

In response to the GAO report, the Forest Service is working on a Cohesive Strategy to restore and maintain fire-adapted ecosystems across the interior West. I've seen a draft of that report, and the price tag on the draft is about $12 billion over 15 years to treat 60 million acres on the National Forest. As I understand it, the Forest Service had hoped to release a final Strategy about a month ago, but this Administration's OMB has put a hold on the Strategy as too expensive.

I'm not willing to wait until Flagstaff or Tucson or any other community virtually surrounded by the National Forest burns. I support providing the Forest Service and the Bureau of Land Management with emergency funds, assuming that the Administration designates these funds as emergency funds as required by the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. President, I also want to draw my colleagues' attention to the comments of Stewart Udall that were published in the Arizona Republic on Thursday, July 6th. As my colleagues know, Stewart Udall, who now lives in the fire-threatened community of Santa Fe, New Mexico, served as Secretary of the Interior and represented Arizona in the House of Representatives. Mr. Udall notes with complete accuracy that we have altered the ecology of our forests and that it is only a matter of time before these man-made tinderboxes will ignite. Mr. Udall implores citizens to unite and demand restoration plans and aggressive, science-oriented, landscape-scale restoration action plans to prevent Los Alamos-style disasters.

Mr. Udall praises an organization of which I, too, am proud, the Ecological Restoration Institute, located at Northern Arizona University, and its leader, Dr. Wallace Covington. Mr. Udall opines, and I agree, that with appropriate support, the Ecological Restoration Institute can show other forested states how to use controlled burns and mechanical thinning to eliminate the threat of devastating fires.

Mr. President, I ask unanimous consent that these remarks of Mr. Udall be printed in the RECORD.

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

[From the Arizona Republic, July 6, 2000]

LET'S BEGIN TO MANAGE OUR FORESTS

(By Stewart L. Udall)

SANTA FE.—As I survey the charred remains of the ''Cerro Grande'' fire that raged through Los Alamos, N.M., and its National Nuclear Laboratory, I am reminded that we have created an environment that invites a monster to rampage through our forests and threaten many communities.

In the Southwest, we have whetted its appetite by providing an overabundance of ponderosa pines and by mismanagement that has built a ladder of small, sickly trees that allows fires to leap into the crowns of old-growth yellow-bellies and into our mountain towns and homes. Meanwhile, we have wasted precious time looking for someone to blame and arguing over the definition of logging.

By altering the ecology of our ponderosa pine forest lands for a century, we have created unnatural conditions where fire can no longer play its natural role. Unhealthy forests abound in the West, and it is only a matter of time before these man-made tinderboxes are ignited and hapless ''disaster areas'' are proclaimed by presidents.

Before Western settlement began, fire strayed mostly on the ground, working its way through the grasses every few years as nature's steward, cleaning up the debris on the forest floor. Scientists at the Ecological Restoration Institute in Flagstaff have been telling us that the size and frequency of the recent fires have never before occurred in our ponderosa forests. They report, too, that the fires are growing larger, more damaging and more expensive and difficult to suppress.

Concerned citizens must unite and demand restoration plans and action that will reduce dangers and initiate campaigns to restore our forests and make them resilient and sustainable. Party lines and political agendas have no place in the upcoming battle. Republican Sen. Jon Kyl of Arizona and Interior Secretary Bruce Babbitt, a Democrat, have set an excellent example by locking arms and supporting projects to show what can be done to restore forest lands.

It will be incredibly short sighted if Arizona's affected cities do not, working in concert with the Forest Service, develop aggressive, science-oriented, landscape-scale restoration action plans and begin to implement them soon. Preventing Los Alamos-style disasters from decimating Arizona communities will test the grit and gumption of the Forest Service. And if emergency measures or funds are needed to get action started, it will also test the foresight and leadership of the state's congressional delegation.

Arizona's Ecological Restoration Institute is a national asset. It is led by Dr. Wallace Covington, a scientist who knows more about the ecology of ponderosa forests than any of his colleagues. With appropriate support, the institute can show other ponderosa states how to use controlled burns and thinning to eliminate the threat of devastating fires.

In a rich country, it is downright stupid to spend billions each year to put out destructive fires when modest resources can be invested to prevent such disasters. The bill presented to the federal government for fire suppression and reparations at Los Alamos is mounting daily toward $800 million. Experts are telling us this conflagration could have been prevented by forest-management measures costing $15 million to $20 million. When will we get smart?

Mr. ENZI. Mr. President, I rise in support of the amendment introduced by the Senator from Idaho, Senator LARRY CRAIG, to require the United States Forest Service to establish a Federal Advisory Committee Act committee to study and report on the proposed roadless area initiative and proposed transportation guidelines rule.

I have serious concerns regarding the process implemented by the United States Forest Service in developing these proposed rules. The House Energy and Natural Resources Subcommittee on Forests and Forest Health initiated a review on October 28, 1999, requesting documents from the Forest Service and the White House regarding development of the proposed roadless rule. While reviewing thousands of pages of documents provided by the Clinton administration, the committee found that the administration had held a number of meetings with, and used draft language, legal memoranda, and survey research data prepared by, a select group of representatives from national environmental organizations including: the Heritage Forest Campaign; the Wilderness Society; Natural Resources Defense Council; USPIRG, Earth Justice Legal Defense Fund, Audubon Society; and the Sierra Club.

In addition, the committee found no evidence of any effort to meet with or involve other groups or interested parties, and that the USFS' push to complete the proposed roadless initiative led to the use of poor data and errors in documentation, as is evidenced by letters from the National Forests and regional offices to the Washington Office expressing concern over the accuracy of the information being transmitted. For example, in one letter a USFS employee stated, ''This is an estimate that I hope we are not held accountable for.''

This reliance by a Federal agency upon a select group of individuals for the purpose of obtaining advice or recommendations is a de facto establishment of an advisory committee, an activity that must be conducted in accordance with the Federal Advisory Committee Act (FACA). FACA requires any agencies that establishes an advisory committee to file a formal charter, publish notice of all meetings in the Federal Register, ensure that all meeting are open to the public, keep minutes for each meeting, designate a Federal officer who must be present at each meeting, and must ensure that membership of the committee represents a cross section of groups interested in the subject—in this case the management and use of national forests.

This provision is also contained in the National Forest Management Act of 1976 (NFMA).

Unfortunately, the United States Forest Service's proposed roadless rule was developed without meeting any of the above FACA requirements. Instead, the Forest Service developed this rule in meetings with a small, insular group that represented only one, limited interest. Furthermore, the meetings were conducted behind closed doors and without any public notice.

Once again, the Clinton/Gore administration has demonstrated its unwillingness to include those most affected by federal land management decisions in developing land use policy. Instead of finding a way to include state and local governments, industry, recreationists and any other group interested in using and enjoying our national forests, this administration has chosen the politics of divisiveness and has excluded those who will ultimately have to live with the final decision from the development process. The

only inevitable conclusion from this kind of politics will be first, exclusion from the process, and finally exclusion from the forests themselves.

I support this amendment, and encourage the Forest Service to take this opportunity rethink its current process and to reconsider its proposed actions at a more appropriate level. The decisions being made pursuant these rules would be more responsive to local communities and forest health concerns if they were conducted properly and not in violation of current law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, as manager of this bill, I have been extraordinarily gratified by this debate on something I thought might be very controversial, but the Senator from New Mexico and his allies have given us a wonderful, totally bipartisan compromise on a significant issue, one I believe personally to be very constructive and very important. Rather than say anything more about it, I think we should take advantage of this opportunity and call for the question.

The PRESIDING OFFICER. Is there further debate on the secondary amendment?

Mr. DOMENICI. Mr. President, I thank everyone. There have been so many people working on this amendment. It has boiled down to a page and a half, but it is a very good amendment. It will permit the Forest Service and the BLM to do a lot of things they otherwise would not be able to do.

I am very thrilled today. I had originally nicknamed this bill ''happy forests'' because I thought maybe if we cleaned them up and took all this gasoline, using that figuratively, that is waiting around to burn them down—I thought they might just smile; they might just be happy forests. I want to say that is going to be the title of the bill. It has another fancy title. But when it passes today, let us just put in the RECORD, Senator DOMENICI is going to call this the happy forest bill.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question is on agreeing to amendment No. 3806.

The amendment (No. 3806) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to amendment No. 3795, as modified, as amended.

The amendment (No. 3795), as modified, as amended, was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3807

(Purpose: To make emergency funds available to the United States Fish and Wildlife Service for salmon restoration and conservation efforts in the State of Maine)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Ms. SNOWE, proposes an amendment numbered 3807.

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

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

The amendment is as follows:

On page 121, between lines 18 and 19, insert the following:

For an additional amount for salmon restoration and conservation efforts in the State of Maine, $5,000,000, to remain available until expended, which amount shall be made available to the National Fish and Wildlife Foundation to carry out a competitively awarded grant program for State, local, or other organizations in Maine to fund on-the-ground projects to further Atlantic salmon conservation or restoration efforts in coordination with the State of Maine and the Maine Atlantic Salmon Conservation Plan, including projects to (1) assist in land acquisition and conservation easements to benefit Atlantic salmon; (2) develop irrigation and water use management measures to minimize any adverse effects on salmon habitat; and (3) develop and phase in enhanced aquaculture cages to minimize escape of Atlantic salmon: *Provided*, That, of the amounts appropriated under this paragraph, $2,000,000 shall be made available to the Atlantic Salmon Commission for salmon restoration and conservation activities, including installing and upgrading weirs and fish collection facilities, conducting risk assessments, fish marking, and salmon genetics studies and testing, and developing and phasing in enhanced aquaculture cages to minimize escape of Atlantic salmon, and $500,000 shall be made available to the National Academy of Sciences to conduct a study of Atlantic salmon: *Provided further*, That the amounts appropriated under this paragraph shall not be subject to section 10(b)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(b)(1)): *Provided further*, That the National Fish and Wildlife Foundation shall give special consideration to proposals that include matching contributions (whether in currency, services, or property) made by private persons or organizations or by State or local government agencies, if such matching contributions are available: *Provided further*, That amounts made available under this paragraph shall be provided to the National Fish and Wildlife Foundation not later than 15 days after the date of enactment of this Act: *Provided further*, That the entire amount made available under this paragraph is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

Ms. COLLINS. Mr. President, let me begin by complimenting the Senator from Washington and the Senator from West Virginia for crafting an excellent bipartisan appropriations bill for these very important programs that matter so much to each of us in all our States. They have worked very well together and brought to the Senate for its consideration a bill that deserves support. I commend their efforts in that regard.

The amendment I am offering on behalf of myself and the senior Senator from Maine, Ms. SNOWE, concerns an issue of tremendous importance and urgency to the State of Maine. The issue involves the Federal Government's proposal to list the Atlantic salmon in the State of Maine under the Endangered Species Act. More specifically, the issue before us is whether the Federal Government will support the efforts of the State of Maine and other organizations to restore and conserve the Atlantic salmon in our State. Our amendment would appropriate $5 million in emergency funds for this very purpose.

I will give all of my colleagues an idea of just how critical it is for these funds to be invested in our State this year. This situation is truly an emergency. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service have proposed to list certain Atlantic salmon in Maine as an endangered species. Under an agreement reached last month between the services and the two organizations that filed suit in Federal court seeking emergency listing of the salmon, the services have agreed to make a final decision on whether or not to list the Atlantic salmon as endangered by November 17 of this year.

I emphasize this point: The services have already given up their statutory and—what is usually a matter of course—routine ability to seek an extension of time in which to make a determination of whether or not to list the Atlantic salmon in our State under the ESA. In short, the time is now to demonstrate a Federal financial commitment to salmon in our State and that a listing under the Endangered Species Act is not necessary to conserve and restore Maine's magnificent Atlantic salmon.

The stakes are decidedly high and the services' rush to judgment unfortunate. A decision to list the Atlantic salmon under the ESA could threaten the livelihood of thousands of Mainers, particularly in the eastern part of the State of Maine. This is one of the most beautiful sections of our State; unfortunately, it is one of the most challenged economically.

At risk is a $68-million-a-year agriculture industry employing 1,500 Mainers, a $100-million-a-year blueberry industry supporting 8,000 jobs, a developing cranberry industry into which more than $500 million has been invested already, and a forest products industry that is the linchpin of Maine's economy. As Maine's independent Governor, Angus King, put it, a listing would be ''a devastating economic blow to a region of the State least able to endure it.''

The $5 million we are seeking would make a substantial contribution to salmon conservation and restoration

efforts in our State. The funds would be made available to the National Fish and Wildlife Foundation, which has made a commitment to us to work very closely with the State of Maine to ensure that every single dollar is spent effectively. The funds would be used to assist in land acquisition and conservation easements to benefit Atlantic salmon, to develop irrigation and water use management measures, to minimize any adverse effects on salmon habitat, to develop and phase in enhanced agriculture cages to minimize the risk of escape, to install and upgrade weirs and fish collection facilities, and to conduct risk assessments, fish marking, and salmon genetics studies and testing.

The need for these emergency funds is right now. As noted, a listing decision is expected to be made early in the next fiscal year. The $5 million we are requesting needs to be appropriated prior to the Federal Government making its decision on whether or not to list the species, if it is to make a difference. We strongly believe that vigorous and effective salmon conservation and restoration efforts are needed in the State of Maine, but that listing the salmon as an endangered species is simply not the way to go. If these emergency funds are not appropriated this year, we will have missed an opportunity to convince the services that listing Atlantic salmon as endangered is not warranted. And we will have missed an opportunity of great importance to the people of Downeast Maine.

I thank the distinguished chairman and the ranking member of the subcommittee for their invaluable assistance on this critical matter. Senators GORTON, BYRD, and STEVENS have worked very hard to help us get to this point, and I have confidence that they will see this crucial amendment through to its enactment.

Mr. President, I understand that the amendment is acceptable to both managers of the bill, and I will urge its adoption following the remarks by the senior Senator from Maine.

Ms. SNOWE. Mr. President, today I am pleased to join Senator COLLINS in offering this amendment to the Interior Appropriations bill to make available $5 million in emergency supplemental funding for the restoration of Atlantic salmon. This is an issue that is critically important to the State of Maine. In 1997, the Fish and Wildlife Service and the National Marine Fisheries Service (the Services) enthusiastically endorsed the Maine Atlantic Salmon Conservation Plan as the best possible approach to restoring these fish to Maine rivers. Unfortunately, this five-year plan was essentially shut down less than halfway into its implementation when the Services re-initiated a proposed listing under the Endangered Species Act (ESA) on November 17, 1999.

This short-sighted action has placed in jeopardy an innovative and cooperative restoration strategy involving habitat restoration, water quality improvement, and widespread restocking programs statewide. The Services have yet to demonstrate what additional benefits will be afforded the salmon through such a designation despite my repeated requests for such information.

We in Maine have worked hard and made many sacrifices to restore our treasured Atlantic salmon. I continue to believe that a fully implemented Maine Plan remains the best means of restoring these fish and there is no benefit in cutting short such a promising effort.

Unfortunately, the Services have entered into an agreement with litigants that requires them to make their final listing determination by November 17, 2000. This action precludes the possibility of seeking a six month extension, as allowed under the ESA, to resolve any questions of scientific uncertainty. Many such questions have been raised. Questions range from whether or not these fish actually constitute a genetically distinct population segment as defined by the ESA to whether the Services' river specific hatchery stocking program has produced any benefits and is an appropriate restoration strategy. I have asked the National Academy of Sciences to thoroughly review the quality of the science that forms the basis of this proposed listing. This information will guide future restoration efforts in Maine. The funding under consideration today will make such a review possible.

Additionally, the Services have not undertaken a quantitative risk assessment to ascertain the relative importance of various factors which may influence salmon survival. Without such a risk assessment, we have no way of knowing if the Services are focusing on the right problems or potential problems and there is no clear way for the Services to evaluate what more needs to be done. In essence, the Services have no way of knowing if they are asking the impossible of the State. The State of Maine has been asking for such an assessment for over one year. Since the beginning, the Maine Plan has been incredibly dynamic and has evolved to address new problems or concerns. In fact, the State has addressed in some form every concern raised by the Services. This risk assessment will provide the necessary guidance to again strengthen salmon restoration efforts and target limited resources most effectively.

This risk assessment is but one example of the critical activities that need to take place prior to November 17th if the Services are to make an informed decision as to whether or not to list. The State of Maine is poised to take further action, such as upgrading weirs at the river mouths, conducing genetic analyses, and testing fish marking techniques, that might render a listing unnecessary. Unfortunately, despite the tripling of the State budget for salmon restoration, there is not sufficient funding available to complete these critical activities. If the State is able to complete these priority items prior to the November 17th deadline, we may be able to render a listing unnecessary. I would hope that the Services will adhere to the letter and spirit of the Endangered Species Act and fully consider the restoration activities paid for by these funds when making their final determination whether or not to list.

I would like to thank Senators GORTON, BYRD, and STEVENS for all of their assistance in making sure that this money is made available to Maine. I know that they share my concerns regarding the importance of the recovery of U.S. salmon populations, particularly Senators GORTON and STEVENS who have been working hard with people in their home states to restore populations of Pacific salmon. The funding we are seeking today was originally included in the Agriculture Appropriations bill. I am pleased that the managers acknowledge how time sensitive this issue is and are receptive to including it on this bill which is moving more rapidly. I can assure you that this money will make a tremendous difference in our efforts to restore Atlantic salmon in Maine. Thank you.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I have at least three reasons to urge adoption of the amendment of the Senator from Maine. The first, of course, is the eloquence that she has evidenced in presenting it and her persistence in pursuing this particular course of action.

Second is that this is directly analogous to the first amendment we adopted today by the two Senators from Minnesota. It is a decision, effectively, that we have already made that this money should be appropriated on an emergency basis. It is included in another bill that is slower to pass. Unfortunately, it was not included in the military construction bill, which did have a number of emergency expenditures in it.

The third comes even closer to home for this Senator because, as the Senator from Maine knows, Washington and Oregon, and for that matter, California, do have listed salmon species.

I may say to the Senator from Maine, we got an advance appropriation and it didn't prevent the listings from taking place, by any stretch of the imagination. But I think it did help my State and the other two States to prepare for what is going to be a long campaign toward their recovery. The hope that a listing may be prevented is a worthy goal on the part of the Senator from Maine. But even if it doesn't happen, this will have helped in connection with whatever the steps are thereafter. If the junior Senator from Maine would not mind, we can accept this amendment now and, of course, give other Senators an opportunity to speak. So she is ahead and she might as well win while she has a chance.

Ms. COLLINS. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, we in the minority share the feelings expressed by the distinguished manager of the bill. We, too, yield to the eloquence and the grace of the distinguished Senator from Maine.

Ms. COLLINS. Mr. President, I thank both my colleagues for their gracious comments and willingness to work with me on this very important issue. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3807) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I will be offering an amendment at the close of my remarks. It involves a section of this bill which I believe was authored by Senator DOMENICI of New Mexico. I just spoke to him a minute ago to tell him I will be offering this amendment to strike his section. He said to proceed. He will come to the floor in a few moments, and I am sure he is following this debate in the meantime.

First, I thank Senator BYRD and Senator GORTON for their fine work on this Interior appropriations bill. I think I have expressed the feelings of many Members of the Senate that this is a spending bill that is near and dear to our hearts. It involves so many of our Nation's greatest treasures, and the stewardship which they showed on this bill will not only reflect their feelings, but will inure to the benefit of generations to come, if we do it right.

This bill is considerably different and, in my estimation, considerably better than the bill in previous years. In the past, there have been the so-called environmental riders that have been added on a variety of different issues. Most of them involved public lands and how they were to be used.

I come from the State of Illinois. We have some public land in Illinois. We have a national forest in Illinois. We have part of a National Park System—a very small part. I know that some of my colleagues from the Western States have a much different situation. Many of them represent States where the majority of the land is owned by the Federal Government. I am sure that is an awkward situation, at best. I can't quite imagine all of the ramifications of that policy, of owning that public land and managing it. But I am sure it affects their daily lives and the economy of their States.

Having said that, though, I think all of us, whether we live in one of those States with a large portion of publicly owned land or whether we live in some other part of the country, have a vested interest in this debate about the use of the public lands. The reason we have a vested interest is twofold. First, these lands are being managed now by this Presidential administration in a temporary way. Soon there will be another President. It could be President Gore; it could be President Bush. I am not certain what the outcome of the election will be. But the next administration will then be handed the responsibility of managing this public land.

Each successive administration, each President, and Congress, for that matter, have a voice in determining how that land is to be managed. And if they do the job right, in my estimation, they will hand off to the next generation succeeding an even better stewardship of this Federal land. I drew from my desk a quote from the CONGRESSIONAL RECORD. It is a quote from a former Republican President of the United States by the name of Theodore Roosevelt. For those familiar with the administration of President Theodore Roosevelt, you know he created the first national park and that he had a special interest in conserving and protecting our natural heritage and, particularly, in establishing public lands to protect them for future generations. This short quote summarizes his philosophy and, I might add, my own:

> We must ask ourselves if we are leaving for future generations an environment that is as good or better than what we found.

That is a very simple, straightforward statement. I keep it in my desk here because, quite honestly, when the Interior appropriations bill comes up, that question is being asked of us. Are we going to manage the public lands of America in a way that future generations will look back and say we did a good job and protected that legacy from previous generations? It has been handled and managed well under your stewardship.

I think that is the test. It is the test of this appropriations bill, and it is the test of every amendment to that appropriations bill. That is half of the test. The other half of the test goes beyond our obligation to explain to future generations, if we did a good job—it goes to the question as to whether or not we have met our responsibility to God's creation because on these public lands we find a great many species, a lot of different plant life, wild flowers, grasses, which are things that, frankly, depend on our good stewardship. If we don't treat those lands well, we not only stand to disappoint future generations, we stand to destroy our natural legacy.

So when we talk about environmental issues, a lot of people like to categorize those as some kind of bureaucratic gobbledygook jargon in Washington. I think it is much more than that. It gets down to those two fundamental questions. At the end of the day, when we are called to judgment for our public service, can we say to future generations that the public lands you entrusted us with are given to you in at least as good a shape as we received them, and maybe better, and that we protected God's creation in a reasonable and thoughtful way during our years of management? That is the underlying debate that we hear on the floor of the Senate when we discuss so-called environmental riders; that is, questions of environmental policy raised in the Interior appropriations bill.

Let me address the specific issue before us in the amendment I will offer. The Bureau of Land Management is part of the Department of the Interior. It is entrusted with administering millions of acres of our Nation's valuable and diverse public lands located primarily in 12 Western States, including the State of Alaska.

Currently, the BLM manages more Federal lands than any other public agency. BLM oversees some 40 percent of our Nation's Federal lands—roughly 264 million acres of surface land predominantly in the western part of the United States. But acreage alone doesn't tell the story.

Our Nation's public lands contain a wealth of natural, cultural, historical, economic, and archaeological resources that belong to everybody. They are, in fact, part of the Treasury of the United States—not in dollar terms, but when you want to measure the assets of this country, you would certainly step back and say: I want to include not only what we find in our Treasury but our Grand Canyon, Yellowstone, Yosemite, and all of the land owned by the people of this country. These are our assets that we have a responsibility to protect and manage.

The natural and ecological diversity of the BLM-managed public lands is perhaps the greatest of any Federal agency. BLM manages extensive grasslands and forests, islands, wild rivers, high mountains, arctic tundra, and desert landscapes. As a result of the diversity of habitat, many thousands of wildlife and fish occupy these lands. These fish and wildlife species represent a wealth of recreational, national, and economic opportunities for local communities and States in our Nation.

The single most extensive use of public land under the jurisdiction of the BLM is grazing in the lower 48. Of the roughly 179 million acres of public land managed by the Bureau of Land Management outside of Alaska, grazing is allowed on almost 164 million acres out of 179 million, and millions of these acres also contain valuable and sensitive fish, wildlife, archaeological, recreation, or wilderness values.

At the present time, the BLM authorizes through the issuance of grazing permits approximately 17,000 livestock operators to graze on these 164 million acres of public land. These permits and public land grazing that they allow are important to thousands of Western livestock operators. Many of these livestock operators and ranchers use these permits to help secure bank

loans to provide important financial resources for their operations.

BLM typically issues grazing permits for a 10-year period on public lands. Many current grazing permits were issued in the late 1980s and are now expiring in large numbers over 2- or 3-year periods of time. These permits numbering in the thousands present the BLM with an unusually large and burdensome short-term renewable task.

We addressed this very issue in previous Interior appropriations bills. Can the Bureau of Land Management keep up with expiring permits or leases and reissue them in timely fashion so that someone who is using the land, the livestock operations, can continue their business, not lose money, and not face uncertainty when it comes to financing their operations?

The unusually large number of expiring grazing permits has created a dual dilemma for the Bureau and for its many public constituents. Western livestock operators who currently hold these expiring permits are worried that delays in the processing by the Bureau may cause them to lose their permits or otherwise threaten their ability to use the permits to secure bank loans for their operations.

Conservationists-environmentalists—meanwhile believe that the Bureau has a responsibility to perform responsibly for the governmental and environmental stewardship of these lands and analyze the grazing to make certain that if there is to be a renewal it is done in a reasonable and responsible way.

It is entirely understandable to me being from my State that ranchers are concerned about issues of security and predictability. So are my farmers. I understand this. Likewise, we require the BLM to wisely manage and protect our public lands for all Americans.

The on-the-ground permit level decisionmaking that should legally accompany the BLM's permit renewal process is fundamentally important to the ecologically sound and multiple-use management of our Nation's public lands.

The BLM must conduct what we call a NEPA, which is the National Environmental Policy Act, compliance and land use planning performance review before reauthorizing permits. In other words, before they give the permit back to the livestock operator to go back on public land to use it for grazing, they take a look at public land: How are we doing? Are we doing this in a responsible environmental way so ultimately the land is not so degraded or changed as to lessen its value or to endanger species and wildlife? That is a responsibility of BLM. It is an important one.

To meet the review requirements under NEPA and other existing Federal laws and regulations, the BLM uses a lot of different teams composed of agency professionals who look at wildlife, range, wild horse, bureau and cultural, and recreation wilderness activities. The BLM also solicits public comments and relevant information from a wide array of people interested in range management, including hunters, fishermen, and many others.

The simple fact is this: On most public land, grazing allotments and all of the important decisions that determine the condition of public rangeland resources are contained in the terms and conditions of the grazing permits and in the annual decision about the amount, timing, and location of livestock grazing. These decisions determine whether streams in the areas will flourish or be degraded and whether wildlife habitat will be maintained or destroyed. Public involvement in this process is essential for balanced public management. Without the application of NEPA and related laws, the American public has no real voice in public rangeland management.

Let me at this time give you an illustration. A picture is worth more than a thousand words. Any Senator is good for a thousand words at the drop of a hat. This picture will tell you an interesting story of a NEPA review of grazing on BLM land.

Let me drop some of these acronyms and abbreviations and try to speak English so those following the debate will understand.

The ecological picture here is one of the Santa Maria River in western Arizona, which has improved dramatically as a result of permit management changes under the environmental policies of the BLM.

It is important to note that the BLM continues to allow grazing in the areas you are looking at. However, they change some of the conditions of the grazing. As a result of environmental considerations, the grazing permits on the Santa Maria River in western Arizona now contain terms and conditions requiring livestock to be kept away from the rivers and streams during the spring and summer growing season.

The Santa Maria River in western Arizona is a rarity. It is a free-flowing river in the midst of a vast, hot, low-elevation desert.

The riparian corridor provides essential habitat for dozens of species of wildlife, including 15 species listed by Federal or State agencies as threatened, endangered, or some other special status. The riparian area of Santa Maria and its ability to support wildlife were severely degraded by many years of uncontrolled and unmanaged livestock grazing in the river corridor.

The vegetation was literally stripped away. Water was so polluted that streambanks were trampled and miles of riverbed areas and riparian areas were nearly as barren as the surrounding desert.

This is the picture of the overgrazed area around the Santa Maria River in Arizona. There is the ''before'' picture. Let me tell you a little bit about the ''after'' picture, which I will refer to in a second.

For decades, the BLM issued new grazing permits to ranchers along the Santa Maria River with no terms and conditions to protect the riparian areas.

Even though the BLM developed the land-use plan that required the river to be rested from livestock grazing, that requirement was not included in the permits. In the late 1980s, a portion of the Santa Maria River received an unplanned reprieve from grazing. The rancher who held the permit went bankrupt and had to sell all his cattle.

The result of 3 years of rest from grazing can be seen in the second photo. These are roughly the same areas. This one looks like a stripped desert; the second is much different. This is a stream bed from the Santa Maria River, showing the natural vegetation and grass that has grown back in the grazing area. The riparian vegetation has begun to return, the stream banks are rebuilding, and the water is cleaner than in other portions of the river.

In the early 1990s, the bankrupt rancher sold out to a new rancher who wanted to restock the river corridor with cattle and start the grazing again in this area. The BLM proposed to transfer the grazing permit to the new rancher with no NEPA analysis; that is, no environmental analysis and no public review. The transferred permit would have had the same terms and conditions and ultimately resulted in the same condition as seen in the before picture.

A number of individuals and organizations challenged the BLM decision to renew these permits without a NEPA review and public comment. As a result of the environmental assessment, the grazing permits on the Santa Maria contain terms and conditions requiring that livestock be kept out of the riparian area during the spring and summer growing seasons. There is now a chance for vegetation to recover and water quality and wildlife to be restored.

The reason this part of the debate is important is it relates directly to the amendment I will offer. If the amendment offered by the Senator from New Mexico remains in this bill, permit level management changes that I have just described will be much more difficult to obtain.

Let me speak for a minute about section 116 of this bill that I would strike. This is the so-called grazing right. Most Members of the Senate have received letters from virtually every major environmental group in Washington, asking them to join in supporting my amendment to strike section 116. Here is the reason. This is the third attempt in an Interior appropriations bill to allow grazing permits to bypass current environmental regulations. Section 116 allows renewal of grazing permits that expire in fiscal year 2001 under the same old terms and conditions in which the permits were first issued.

Last year, I offered substitute language to similar offerings by the Senator from New Mexico. My language

would have addressed ranchers' needs for the Bureau to process grazing permits in a timely fashion and in a manner by which ranching operations and financial arrangements would not be needlessly disrupted.

My intent last year was to not only protect the environment but to protect the ranchers, as well, to give them certainty as to when the new permits would be issued, and to also say that, where necessary, the Bureau of Land Management could step in and make the environmental changes to protect an area, changes that could avoid this and result more in this type of situation, which I think most of us would agree is better stewardship of the land.

However, I am pleased to report that my efforts to hold the BLM and their feet to the fire successfully on their own resulted in change. My amendment didn't succeed. But they went on to work to solve the backlog of expiring permits.

The bottom line is this: There is no longer any need whatever for section 116 in this bill.

Let me show a chart in reference to the activity of the Bureau of Land Management. The BLM issued 3,872 fully processed grazing permits and leases in fiscal year 1999. In fiscal year 2000, the Bureau of Land Management is scheduled to issue 2,893 fully processed grazing permits and leases; 1,408 have been holdovers from the previous year, but they, too, will be renewed this year. In fiscal year 2001, the Bureau of Land Management will only be faced with 1,646 permits that have expired, and a small carryover of 484 from the previous year, for a total workload of 2,130 permits in the next fiscal year. This number is fully within the capability of the Bureau of Land Management.

We will hear from the other side, those supporting this environmental rider—that is opposed by virtually every environmental group in the Nation's Capital—that we have to put this rider in place to renew old permits without review because the ranchers and livestock operators cannot be certain that the BLM will meet its obligation to issue the new permits as the old ones expire.

The numbers tell a totally different story: 3,872 permits reviewed and approved by the BLM in 1999; this year, another 2,885; in the year for which we are appropriating, the numbers will be down around the 2,100 range. Clearly, the BLM has the capability to handle many more permit renewals than we envision in the next fiscal year. There is no need for this environmental rider to create exception and to tell the old permit holders they don't have to go through the process. The process is there. It is timely. It will give them the certainty they want about their future. All but 79 of the expiring 2001 permits will be completely processed in 2001.

The BLM has decided to carry over the permits because they concern areas near the Grand Staircase Escalante National Monument and in the Bookcliffs allotment. Because of the environmental sensitivity of these areas, the Bureau of Land Management will conduct an environmental impact statement instead of the regular environmental assessment.

The question arises, if the BLM will no longer have a backlog of permits, why is there such concern that section 116 be included in this bill? Although that question can be easily reversed, the concern is that section 116 will create incentives for livestock operators to delay renewal of their permits in hopes of avoiding environmental compliance by gaining an automatic renewal of their old permits under the old terms and conditions.

Section 116, as presented in this bill, undercuts meaningful opportunities for public involvement in a range management process. Is that important? Remember the picture from the Santa Maria situation; the BLM didn't come up with policies that resulted in the second photo. The lands lying in rest for 3 years, and public comments, led to changes in permits, which means that instead of desert, we are going to have a very beautiful area, an important area for habitat which is not environmentally damaging.

Section 116 undercuts that opportunity for public comment because it provides for an automatic renewal of the old permit without going through public comment or environmental review. They have to renew under section 116 the old permits under the same terms and conditions for an indefinite period. It effectively eliminates public input into the stewardship of public lands.

The Senators in support of 116 are saying to the people of this country who own these lands all across America: Get out of the way. We don't want you to be part of the process. We don't want you to sit back and determine whether the livestock operator who has been on this land for 10 years has done a good job from an environmental viewpoint.

Frankly, that is why we are here. Those in Congress and in the administration who have responsibility for the management of the land have to leave it to future generations in at least as good shape as we received it. If we cannot take an objective appraisal of how a rancher or livestock operator has managed the land, if we cannot decide that perhaps there needs to be a change because the way he is managing the lands is destroying it, then frankly we are running away from our responsibility.

Section 116 in this bill, which I strike, does exactly that. It takes the public out of the process. It takes the Government, looking at this from an environmental viewpoint, an ecological viewpoint, out of the process. It says it is an automatic renewal, no questions asked or answered. That is why this section 116 is opposed by a wide array of groups, including the Wilderness Society, the Sierra Club, the U.S. Public Interest Research Group. It is important to note that the League of Conservation Voters views this as a very important vote, as well.

Let me address specifically the situation involving the State of New Mexico. The BLM says that New Mexico, which is the home State of the Senator who has offered this, will process and issue all fiscal year 2001 expiring permits, as well as all carryover permits from fiscal year 2000. So if we hear the argument on the floor that this backlog is hurting the State of New Mexico, the home State of the Senator who offered section 116, the facts don't back it up.

By September 30 of this year, New Mexico is committed to fully processing and issuing all 379 carryover 1999 permits and leases and 179 of the year 2000 permits, for a total of 558. New Mexico plans to issue 192 fiscal year 2000 permits, using Public Law 106–113.

In fiscal year 2001, 221 permits and leases will expire in New Mexico. Like the BLM as a whole, in fiscal year 2001, New Mexico will process and issue all fiscal year 2000 carryover and fiscal year 2001 expiring permits, a total of 413.

This environmental rider, this section, was sold to us in years gone by as a necessity because of the backlog of cases on permits. The argument no longer holds. The BLM is fully capable of issuing new permits after the environmental consideration and public comment period, without hardship to the livestock operators and ranchers.

Let me address one other aspect of this which I think is very important. The reason why section 116 should be stricken from the bill gets to the heart of the question. Assume for a minute that you have a permit for your cattle to graze on public lands. Assume that the permit is about to expire and you are now in a position where you are having a review by the Bureau of Land Management. They come to a conclusion that the way you have used your permit over the last 10 years has been bad, you have damaged the land, you have damaged the water quality, you have destroyed habitat for wildlife, you may have threatened some species that live in that land. So they want to change, in the next permit process, the way that you, for example, graze your cattle. If you remember the example from the previous photograph, the Santa Maria River, they decided at certain times of the year cattle could not graze near the river, for many of the reasons I just explained.

If section 116 goes forward as proposed by the Senator from New Mexico, if there is a dispute between the Bureau of Land Management and the permit owner, all the permit owner needs to do is to appeal the decision by the BLM, and, frankly, he gets to live under the terms of his old permit with no restrictions on when the cattle can graze and no restrictions on activity

that might be damaging to the environment. That is the net effect of section 116, that we allow any bad actors who are destroying the environment on our land, our public land, to continue under the old terms and conditions and not face changes that would be in place.

If section 116 were not part of this bill, the Bureau of Land Management could step in with a full force and effect order and say: Even while we are debating and appealing this question, you have to stop grazing your cattle near these streams and rivers in the summer and spring seasons when the area is the most vulnerable.

The bottom line is, those who support section 116 think environmental concerns should be removed, take second place to moving forward and renewing the old permits. That is the bottom line. That is what this debate is all about. Those who believe, as I do, that this land belongs to us and future generations, that this land is in fact the habitat for many species and wildlife that need to be protected, believe, I hope, section 116 should be stricken.

Aldo Leopold wrote a great book called ''A Sand County Almanac.'' It is one of the classics, legends, when it comes to the West and the environment. This is what he said about the land:

> Having to squeeze the last drop of utility out of the land has the same desperate finality as having to chop up the furniture to keep warm.

I hope Members of the Senate, Democrats and Republicans, will step back and acknowledge the obvious. The BLM can meet its obligation. It can renew these permits. It can do it in an environmentally sound way. It can leave this land in as good shape as we received it and maybe better. It can leave a legacy to future generations, and even future ranchers, of which they can be proud. We do not need to carve out an exception here. We do not need to walk away from our environmental responsibility. We do not need to take the public out of the process of debating the future of public lands.

A few minutes ago one of my colleagues from Idaho came to the floor, very critical of the Clinton administration because he said they went through a process on roadless lands in the national forests and they were not public enough. The facts are otherwise. There was room for a lot of public comment. But now we are going to hear those who defend section 116 come forward and say: Take the public out of the process. Automatically renew the permits. Don't make the evaluation.

That is shortsighted. That does not meet the standard and test that Teddy Roosevelt and so many others before us established for this Nation. If we do this, we are not managing this land in the best interests of the taxpayers and the best interests of our children and in the best interests of God's creation.

AMENDMENT NO. 3810

(Purpose: To strike the provision relating to renewal of grazing permits and leases)

Mr. DURBIN. Mr. President, I send the 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 Illinois [Mr. DURBIN] proposes an amendment numbered 3810.

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

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

The amendment is as follows:

> Strike section 116.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I listened with great interest to the comments of the Senator from Illinois on striking section 116. Let me preface my point by saying the language in the bill is the same language that was in last year's bill. There is a reason for it. Contrary to the argument being voiced by one side of the aisle, this is compromise language. It passed the House and the Senate last year. It was cleared by the Council on Environmental Quality and signed into law by the President.

As part of his speech, the Senator from Illinois showed us a picture of rangeland in poor quality. Well, I could take that same picture in Yellowstone Park. There is not one cow in Yellowstone Park, not one. There are a lot of buffalo, though. It is all managed by educated, competent land managers. The problem is, they have a hard time cutting back on the herd there. So let's not say that all the ranchers in the world are the rapers and the pillagers of the land, because we can see range in worse shape being managed by the National Park Service.

I go back on open range, range country, with the BLM and Government land back to the 1950s, and even a little before that. I can remember riding into Chicago with cattle for J.C. Penney at the old International Stock Show. So I know a little bit about these cattlemen. I know a little bit about grass. I know a little bit about rain. I know a little bit about sunshine.

If it had not been for the ranching community in our public lands States, there would also be no wildlife on that range because there is no water. For the most part, the land that was not claimed under the Homestead Act was land without water. Water was later developed on that land by the people who leased it from the government. To water their cattle they built reservoirs and wells. They also used pipelines. Anyplace livestock can graze, one will find wildlife.

There was an organization formed just after World War II. The country was coming out of a depression and also some devastating years of drought in the thirties. There are probably not a lot of folks standing around here who know much about that. I do not see that much gray hair around.

An organization was formed to improve the range. It was called the Society for Range Management, long before Government had established any kind of environmental rules, long before there was an establishment of the BLM and guidelines for the men and women who would judge the quality of the range. Government did not fund the Society for Range Management. It was strictly funded by those stockmen who ran livestock on public lands. The Taylor Grazing Act was then established, and that is what governs how we handle permits today.

I want to talk about the Society for Range Management. Every year—and I started this in Montana by the way—we have Montana Range Days. About 300 to 400 people show up for a 3-day camp. They sleep on the ground, and they sleep in the back of pickups. The people run from little shavers in the first grade to seasoned stockmen. During the 3 days, we identify the grass, the foliage, noxious weeds, the carrying capacity of a particular strip of range.

I started that when I went into the broadcast business in 1975 because rangeland is the basis for the economies in the eastern counties of Montana. And as a result, the grazing permits on public lands are vital for Montana.

The range today carries a lot more livestock, a lot more recreation, and more activity overall because of a group called the Society for Range Management. They have been responsible, and that is something we should recognize. Oh, sure, you can take a picture of an area after a drought and it won't be pretty. But as I said, I can show you that in Yellowstone Park where the buffalo took the grass into the ground. I can show you that in Jackson Hole. I can show you that around Devils Tower in the Black Hills, and the rangeland of North Dakota. I could probably show you some pastures in the State of Illinois that are privately owned and are overgrazed. There are always one or two bad examples that one can magnify and say the whole world is doing this to my or our land.

I have yet to see any government organization that has taken care of its land, or our land, as well as a private landowner who has made an economic and cultural investment in that land. It just does not happen.

Last year, we compromised with those opposing the language that we would solve the problem of renewing the permits. We told them that in accepting this compromise, the language before us today, we would have to come back each year until the Bureau of Land Management cleared up the current backlog of permits.

The State of Montana does not have as much BLM acreage as some other States. I do not think we have as much as our neighboring State to the south,

Wyoming. They probably also have more people employed by the BLM because of the environmental laws that have been passed. Some of those BLM folks are very good land managers, but they are also hamstrung by some very narrow-minded people who think they know more about the rangeland than they do or the stockmen who run it.

In the meantime, there is a huge backlog of grazing permits that have gone unapproved, and that is the heart of Section 116. If they get the backlog cleared up, this language goes away. What is to fear? If the permit work is done and the permits have gone before the board, this language goes away. We are making sure everybody plays fair—just fair. That is all we are doing.

We are good to our word, and with the BLM's failure to process the backlog of permits, we have used the same compromise language we did last year to prevent kicking family ranchers off the land through no fault of their own. They get their work done. That is the bottom line. It cannot get any more definitive than that.

I do not want America to think that what I heard spoken before is an accurate assessment of our public lands because I will show you land managed by a stockman that lays next to what the Government manages, and there is a big contrast. It is huge. I will take the stockman's land 9 times out of 10 because I have seen it. I have seen the growth. I have seen the maturity and the things we put in place in range country to make it better, and we have done it with our own money. We did not do it with Government money. We did it with our own money to improve that range country.

I support my good friend from Illinois in the area of good environmental practices, but it is my belief that it is not just Government employees who understand good environmental practices. It is done all through farm and agricultural country, whether it be on public lands or private lands.

This change does nothing to impact the compromise language of a year ago.

I oppose striking section 116. I think it is necessary, understanding there are those who do not want anything, anybody, or any livestock on those lands whatsoever, and particularly people. I can put faces on the people who use these lands very conservatively and improve these lands.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to Senator DURBIN, I apologize for not being present on the floor when he gave what is always an eloquent speech, which he also did in this instance, with some very marvelous background information. Since that graphic is so alive, I suggest that the Senator should know when the vote starts he has to take it down.

In any event, the good Senator from Illinois said there is no good reason to continue to support the Domenici amendment from last year. Incidentally, on an up-or-down vote on the Durbin amendment last year—he will get up and say it is a different amendment, but essentially it is the same issue—58 Senators voted against Senator DURBIN in favor of the Domenici amendment and 37 voted against the Domenici amendment, and 5 did not vote. I am looking at those who did not vote on the Domenici amendment, and I think the numbers will get more lopsided, I say to the Senator from Illinois, because more of them will go my way than his way.

So we want everybody to understand that we still need what we needed last year. I will answer the rhetorical question, which was, there is no good reason for doing this again. I will say, there are 1,300 good reasons to do it this year, for there are 1,300 Americans—some in my State, some in the State of the Senator from Montana, some in the State of the Senator from Wyoming, but there are 1,300 permits that are still not done, and those are for the years 1999 and 2000. We have 2½ months left in 2000. But there are 1,300 permits backed up for processing that are not completed.

Let me make sure that in just a few minutes everybody understands what this means.

If you were to come around 5 years ago or 6 years ago and ask, what is the issue with the National Environmental Policy Act and the grazing permits—as I told my friend from Illinois last year, it did not exist because nobody thought that renewing a grazing lease qualified under the National Environmental Policy Act—get this—as a major Federal action.

But it has happened in this administration. They have concluded that these 10-year leases we give to ranchers, which are policed by the U.S. Government, are subject to NEPA. Be it the Forest Service rangers or the BLM rangers—they police these permits. They see that they are managed right. That is their job.

Incidentally, during that 10-year lease, if they violate it, they are penalized. If they do not take care of things, they get their allotment cut. It is not operating in a vacuum. It is operating all along with the rancher trying to make a living and the Government saying: Do it right.

Then here comes this administration and it says: Why don't we make both Forest Service permits and BLM permits go through a National Environmental Policy Act review for each and every one.

I can tell the Senator, they heard from me then, but all they heard from me were two things: One, it really isn't needed; and, two, if you are going to do it, you will never get it done on time.

I turned out to be right on both scores because, I say to the good Senator from Illinois, in my State, for each and every NEPA evaluation that preceded a lease renewal, about one from my entire State was changed significantly. That means across the board, 99 percent-plus of the time, the NEPA analysis found nothing needed to be dramatically changed.

As I said to the administration way back then, NEPA analyses aren't needed. And then secondly, I said: You will not get them done on time.

Lo and behold, 2 years into that process, we started getting letters from ranchers and property owners saying: Look what is happening. They are making us do a NEPA statement, but they have not done the work yet, for the Government does the NEPA statement. They have said: What is going to happen when our lease expires?

Nice question. The administration could say: We are not ready to give it to you because we have not done the environmental impact statement on each and every grazing lease, which almost everybody looking at the land says is unnecessary. But let us conclude that they had authority administratively to impose NEPA. Incidentally, they never got authority from Congress. Senator Scoop Jackson was the author of the NEPA law.

It would be very interesting if we could ask him from his place, wherever he is on high: Scoop, did you ever think that a grazing lease renewal was a major Federal action under your law? And I swear, if he is listening, he is turning over in his grave because ''major Federal action'' meant a major Federal action, not renewals of every single lease on the grazing lands of America, which are thousands.

Nonetheless, when I offered my amendment last year, all it said was: Look, Federal managers, because of your own fault, you did not get the NEPA work done. Here is all the money you need. How much money do you need? I remember in the Interior bill they asked for more funding. The distinguished chairman gave them that money, so they had no more complaints. They got every bit of the money they needed to do it.

They set about to complete each and every impact statement on leases that were expiring. The problem is, they have not gotten it done yet. All we said is, since you are the ones that are supposed to get it done, and you did not get it done, then you renew their lease. Give them the renewal, but write in this law and on that renewal that as soon as the NEPA work is finished—get this, my good friend, the Presiding Officer—as soon as the NEPA work is done, whatever your conclusions are, you have a right then to impose them on the permit.

I have every confidence in the world, since I believe only one lease in New Mexico had any major changes made because of NEPA, that this law that I am asking to continue again—because they are still behind—will do no damage to the public domain.

Let me make it very clear. There are some marvelous environmental groups in the United States. They have taken on some fantastic causes. Albeit they

do not like my voting record, that is all right with me. I like some of the things they have done. I do not necessarily ask how they want me to vote before I vote. I saw too much of that when I was a young Senator.

I saw Senators come to the floor, knowing little or nothing about it, who said: How are the environmentalists positioned on this vote?

They would say: They are an aye. They would vote aye.

I just do not happen to be one of those Senators. I am kind of proud of that, to be honest. I do not think anybody should come to the floor and say, I better vote with them. I hope I am informed before I get here.

In spite of what I just said, and that some of the brightest Americans are leading these environmental groups, believe it or not, I say to my fellow Senators, they have made this little amendment a major American environmental test. Using my name, they have spread it far across the country: The Domenici amendment is calculated to destroy the public domain, to let ranchers ranch without having the Federal Government oversee their growing malignancy which is destroying ranchlands.

I say to my friends, it did not destroy any because they did not find anything wrong on most of them. There is a chance they will not get completed on time, and we just ought to stay where we were last year because there are too many Americans who are desperately afraid of the arbitrary action that can be imposed on the rancher by lawsuits. They are afraid of arbitrary actions of people who represent the Federal Government.

They kind of cry out to us, when we go meet with them, saying: Just don't do another thing to us, not giving us our lease renewal, when we had nothing to do with the reason for the denial.

I can't put it any more succinct. That is the way it is.

I urge every Senator to do something very simple, and just send a word back that the proof in the pudding is that the NEPA reviews are not saving the public domain. They are just costing a lot of money, taking a lot of time. At least we ought to say to the ranchers who manage well—which is the overwhelming number—we are not going to hold you hostage out there and do what the distinguished Senator from Illinois recommends, which is that it is no longer mandatory that you proceed in a manner that the Domenici amendment last year said. That law allowed the renewal and then, in due course, when the NEPA analysis is finished, act accordingly, with the Government losing no rights. He would say the Government may do that if they want to. Everybody should know, if you turn the amendment into a ''you can do it if you want to, Federal Government,'' you know what is going to happen, at least for a while: The environmental pressure on the Department will be great enough that they won't do it for anybody. A ''may'' will turn into ''thou shalt not.''

I don't think that is fair. I have high regard for the Senator from Illinois. We were just talking before this debate, saying maybe one of these times we are going to be on the same side. I was thinking, if that happened, we might just overwhelm the Senate. We might get 99 votes.

In any event, I am sure hoping he doesn't get 99 votes tonight. I am hoping I get the same number I got last year, maybe even a few more who have thought about it a little bit. Those who understand that it is kind of ridiculous to claim this amendment that DOMENICI put in this bill is going to wreak havoc on the public domain.

I will go anywhere to debate this issue with anyone as to whether this justifies being a major environmental issue. If it does, we must not have very many environmental issues around. They must have paled from the horizon if one of the major environmental issues in America is this issue. This is an issue where the Government doesn't do its work and therefore can't give the rancher a 10-year permit renewal, which he might be completely entitled to. The agency just hold them in abeyance and says: When we get through with our work, we will give you a lease. In the meantime, maybe you will lose your financing.

A lot of Senators know about ranchers and financing. I wonder what the banks would do if their leases were not as certain as they have been because the BLM or the Forest Service can just say maybe we will be able to renew the permit.

I have spent a lot of time on the floor between the happy forest and perhaps the happy solution to this environmental issue. We will have a vote pretty soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I won't take a long time. My friends have covered many of the details.

This issue is not about the pictures that were shown by the Senator from Illinois. It has nothing to do with overgrazing or not overgrazing. That is not the issue. I hate to see it be left that way because it really has nothing to do with that. It has to do with what happens until the BLM can get to that piece of land to make the study to decide what to do with the lease. It is pretty simple.

Here is what it says:

> The terms and conditions contained in the expiring permit or lease shall continue in effect under the new permit or lease until such time as the Secretary of Interior completes the processing of such permit or lease in accordance with all applicable laws and regulations, at which time such permit may be canceled, suspended or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the Secretary's statutory authority.

I am sorry to say that doesn't fit much with what the Senator from Illinois described when he discussed this bill. I do think we need to briefly talk about what does it do.

It allows the BLM to have more time to complete the necessary environmental reviews for renewing permits and leases. By providing BLM more time, they are less susceptible to litigation and therefore less costly to the taxpayer, and it is more likely that BLM will not rush to finish their job and do a complete job of their review when the time comes. The language provides a better method for stewardship of Federal lands by having the BLM and the rancher work hand in hand on it. It provides the means for the agency to utilize sound processes and procedures. That is what they claim they have not had time to do. This provides that.

It subjects the permittee or lessee to potential modifications by the BLM of the terms and conditions, once the reviews are completed. It doesn't give them carte blanche. BLM is still able to revoke a permittee's grazing privileges at any time. They can do that.

It provides more stability, consistency, and security to ranching families. That is very important to us. Fifty percent of Wyoming belongs to the Federal Government. Most of that is BLM land. It is multiple-use land; it was designed to be under the law. This is a renewable resource, and it is done that way. I know that doesn't mean much in Chicago, but it means an awful lot in Wyoming, out where the Federal lands are. We have to talk about that.

The language eases the end-of-the-year backlog, of course, for BLM.

What does the language not do? It does not lessen the responsibility of the rancher in abiding by the terms and conditions of the permit or lease. It does not limit BLM's authority to manage grazing on public lands. It does not exempt the permittee or the lessee from any environmental law. It does not grant a permit in perpetuity. It simply provides for 10 years, until it is changed by the BLM.

It does not allow BLM to delay or ignore compliance of any environmental law or regulation, since BLM is mandated in those time lines to do those things.

Why is this language necessary? Frankly, it is very disappointing that the Senator from Illinois is back the second year in a row to fight against western livestock ranchers. This issue—BLM not being able to complete the required environmental renewal process on expiring grazing permits—is not the permittee's fault. The backlog was created by the administration, by the BLM. For some reason or other, the Senator from Illinois prefers to penalize the ranchers rather than hold the agency accountable.

Striking this section in the bill is really detrimental to management of these lands. The Senate language, which I agree with, states:

The inability on the part of the Federal Government to accomplish permit renewal procedural requirements should not prevent or interrupt ongoing grazing activities on public land.

When they get back to doing their job, it continues on. It is pretty simple. It has worked. It can work in the future. I think it is important we have the same language President Clinton signed into law last year.

As a matter of fact, after being contacted by the cattlemen, he said:

. . . the final 2000 budget does provide BLM with $2.5 million that will enable the agency to effectively conduct detailed reviews before renewing livestock grazing permits and leases to ensure environmental compliance. I am confident this funding will help us protect both the public lands and the livelihood of hardworking ranchers.

That was from President Clinton's letter.

That is where we are. What we need to do is vote against this amendment and allow the system to continue to work as we proved it can work last year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, in a few moments we may be voting on a motion to strike section 116 of this appropriations bill. That is the amendment offered by our colleague from Illinois. I hope Senators will join with us, as they did last year, in opposing this kind of striking of language.

The Senator from New Mexico has said it so clearly, as have the Senator from Montana and the Senator from Wyoming. They have caused all of us to understand where we are in the process of reexamining the grazing permits of western livestock grazers.

I don't think we have put it in the context we ought to for the Senator from Illinois. If we had, maybe he would be less inclined to come to the floor with this issue in hopes of gaining another environmental certificate this year from the Sierra Club for his charging, dynamic rhetoric on behalf of the environment.

Let me for a moment, if I may, deal with this in a hypothetical way. What if there had been a lawsuit in Rosemont, IL, that suggested the air traffic coming into O'Hare Airport was causing air congestion within that air shed and that air quality could not be arrived at there without changing the character of the management of the O'Hare Airport by reducing its flights by 50 percent?

Of course, the Senator from Illinois and I know—he lives in that region; I fly in and out of that region—if you do that, O'Hare Airport is out of business. Thousands and thousands of people would be laid off, if that were to become a Federal rule or a restriction against that activity. More importantly, this is a hypothetical case.

There is a lawsuit that the air traffic coming in and out of O'Hare has created a situation that disallowed that area from gaining its air quality standards. So EPA is in there examining it and establishing a rule to see whether O'Hare can continue to manage its air flights in and out in a way as to sustain its viability and meet the air quality standards. But the rule hasn't been made at a time that the judge has said: Either get it done or I will enforce a reduction in air traffic by 50 percent.

The Senator from Idaho likes that idea, so I come to the floor on the appropriations bill for the Department of Transportation and say: I want to strike an amendment the Senator from Illinois has in there. Let's extend this period of time and allow EPA to complete its rulemaking process so that we can keep O'Hare alive.

I think it is important that we put all of these kinds of things in context. Illinois is not a public grazing State. Idaho is, New Mexico is, Arizona is, Montana is, and so is Wyoming. What the Senator from New Mexico has said is that under today's environmental laws, and yesterday's environmental laws, these grazers will be allowed to graze during that period of time in which the permit process, through an examination by BLM or the Forest Service, is ongoing to reassess their permit and to adjust and change it in concert with current environmental law. I don't know why he would want to stop that. Obviously, he tried last year and the Council on Environmental Quality agreed with us, we defeated that amendment, and the environment is better today because of it.

I hope our colleagues will stand with the Senator from New Mexico, as they did last year, and say to the Senator from Illinois that we are not going to put ranchers out of business. We live with environmental law, we are sensitive to it, and we believe in it. We are not going to arbitrarily do as I suggested in my hypothetical case with O'Hare Airport, which is an area that is not of my interest, but it is an interest of the Senator from Illinois because it is in his State. I don't know much about it, but in my example I want to come in and arbitrarily change the name of the game. Of course, he would work to disallow that, and this Senator would respect the Senator from Illinois for saying that is not my business; that is the business of the Federal Aviation Administration and the State of Illinois, the city of Rosemont, and the Senator from Illinois—not the Senator from Idaho. I think that is the issue here.

In 1878, the diaries of a cavalry officer in charge of the cavalry in eastern Oregon, northern Nevada, and southern Idaho reflected the following:

I believe the grazing lands of this region to be 50 to 60 percent depleted.

That was in 1878. Why? No BLM management. No Federal land management. No standards. Large grazing herds out of the Southwest swept through that country and their history, of course, has filled our history books with the nostalgia of the great trail drives. But there was a young man who was used to the land, and at that time he made an observation that the grazing in the region he used to ranch in and that these Senators are concerned about had already been depleted by over 50 percent—in 1878.

I can say to the Senator from Illinois, because of the standards established by the grazing industry, the environmental community, the Federal Government, U.S. Forest Service, and BLM, many of those lands are much better today than they have ever been. In fact, everyone who knows the western grazing lands and the riparian zones the Senator so eloquently spoke of know that they are hundreds of percent better than just a few decades ago. In fact, let us not forget that when the Secretary of the Interior, at the beginning of his tenure back a few years ago, wanted to go out and find some bad grazing examples that he could talk about to change his grazing land policy, his staff came back and said: Mr. Secretary, we can't find any. We can't find the kind of examples you want to bad mouth the grazing industry and management policies of the Forest Service and BLM because grazing has substantially improved and is continuing to improve.

That is what the Domenici provision, section 116, is all about—continuing that relationship of progressive improvement, environmentally, for the benefit of our country and for the benefit of the wildlife, but also for the benefit of the grazing industry.

Improved grazing and better grass in our country means fatter cattle. By the way, we sell them by the pound. I am not at all embarrassed for saying that. That is the way the industry works, in a balanced and necessary way. I thought it was important to bring this debate into context to the Senator from Illinois, who knows more about the subject I proposed hypothetically than I do. I suggest that I probably know a great deal more about public land grazing than he does. I and my family have used public lands for grazing for over 100 years. I have walked on them, I know the changes, and I have helped to get improved standards. We are doing it right on the public lands of the West today, and a great deal better than we used to do it. I think it is important that we recognize grass as an asset and a natural resource that can be used for a multitude of reasons. One of those reasons is to produce red meat protein for the American consumer. That is what the issue is about. I hope my colleagues will join with me in denying the Senator from Illinois his motion to strike.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Alabama is recognized.

Mr. SESSIONS. I want to speak on another subject, so I will yield to the Senator from Illinois.

Mr. DURBIN. I thank the Senator. Mr. President, if there is no other Senator wishing to speak the first time on

this, I will speak briefly in conclusion. I have spoken to the chairman of the committee. It is my hope that I can ask for the yeas and nays and that we can schedule a final vote on the amendment, as well as on any other pending amendments at a later hour when all Senators reassemble. If that is acceptable, I will speak for a few moments in conclusion.

Mr. GORTON. Will the Senator yield?

Mr. DURBIN. Yes.

Mr. GORTON. Mr. President, the majority leader has indicated that he hopes we can continue debating this bill and finish it tonight, or at least get to a point tonight where it can be finished, perhaps, with a vote on final passage tomorrow. I think that is possible, and this will be part of it.

So I hope the Senator from Illinois will finish his remarks on it. We will ask for a rollcall, and then we will set voting on it aside until we find out how many other amendments there are. I believe the Senator from Nevada, Mr. BRYAN, wishes to come in with an amendment that would require a vote. The Senator from California, Mrs. BOXER, may have an amendment. Senator NICKLES may have one. I am not sure about the Senator from Alabama. But there are a fairly small number that will require votes. I strongly suggest that anyone who feels that his or her amendment cannot be accommodated as a part of a managers' amendment—and we have a very large one now that includes many of the proposals made—if anybody wants to have a vote or debate, they really need to be on the floor very promptly to do so because we would like to go ahead and finish. With that, I thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, let me say in conclusion on this amendment that I have the highest respect for my friend from New Mexico. I often wonder why each year I decide to take on the chairman of the Budget Committee, and the powerful Appropriations Committee, with usually predictable results on the floor of the Senate. He has, much to my consternation, read last year's rollcall, which is another dagger to my heart on this same issue.

Notwithstanding that, I am going to soldier on here because, as the Senator from New Mexico does, there are times when you stand up and fight for something you believe in, even if you may not prevail. I still have the highest regard for him and all of my colleagues on the other side of the issue. I respect the fact that many of them have a much more personal knowledge of ranching and livestock operations than I do. When I think about Senator BURNS of Montana and all of his years as a rancher and auctioneer, he stared more cows in the eye than I will ever be able to.

I listened to my friends, Senator THOMAS, Senator CRAIG, and Senator DOMENICI. I can readily see that these are men in the Senate who represent areas with many more ranchers and many more livestock operators with much more personal knowledge on this subject, notwithstanding that I come to the floor not trying to preach to them about ranging practices but trying to ask them to at least respect the process of trying to protect our public lands.

The Senator from Idaho—I have heard this argument every year when I introduced this type of amendment—has basically said: Why are you sticking your nose into issues about the West? You live in the Midwest. When it comes to an issue such as O'Hare Airport, we would expect you to stand up and talk about it, being from Illinois. But goodness' sake, why are you talking about grazing in 13 Western States if you are from a Midwestern State?

I say to the Senator from Idaho that I think we all bear responsibility, no matter where we are from, for the stewardship of public lands. It isn't only Senators who represent Western States. It is all of us.

Frankly, if those lands are left to future generations, each one of us should take an interest in it, whether we live in Florida, or Illinois, or Maine. We all have a responsibility for those public lands—that Public Treasury, those resources that we count on so much.

I also say to my friend from Idaho that when we stand here and debate gun safety issues representing large cities where a lot of people are victims of gun violence, he stands up on the floor many times and tells us what he thinks gun policy should be in the city of Chicago. He thinks that is his opportunity and responsibility as a Senator from Idaho. So it works both ways.

I think he will concede the fact that, being elected to the Senate, we are not restricted in what we can speak to. We may be restricted in our success about what we speak to.

But let me also say that I want to get down to a couple of things that were not mentioned at the outset that should be mentioned. For those livestock operators who choose to graze on public lands, this is worthy of mention. The grazing fees paid by those ranchers and livestock operators are a bargain. They are an absolute bargain. This Congress and a President decided that we will continue to give these ranchers and livestock operators access to land owned by the people of the United States so they can make a living grazing their cattle for fees that are, frankly, a fraction of what they would pay on private land.

The Federal grazing fee for 1999 was $1.35 per animal unit month grazed. By contrast, the average grazing lease rate for private land is currently more than $11—almost 9 or 10 times the amount these same livestock operators are paying to graze on the lands owned by the people of the United States. In 1996, the fees charged on State land by Western States ranged from $2.18 to $2.20. There was not a single State that leased its grazing land to local livestock operators at a fee as low as the Federal Government.

In addition to the subsidized fees, ranchers with Federal permits enjoy subsidized range improvements. As a result, livestock operators with Federal grazing permits actually have lower production costs and higher profits than livestock ranchers without Federal permits.

As we talk about hardship that we may be creating for livestock operators, let us at least concede at the outset that we are giving these permit holders a bargain to make a living. I have not stood here and criticized ranchers and livestock operators, nor would I. In my State of Illinois, we have livestock products and a lot of farmers. I respect the men and women involved in my State, as I do in any other State. Nor am I bringing this issue before the Senate to try to put any ranchers out of business.

There is one fundamental flaw in the argument on the other side. It is the suggestion that if you had a 10-year permit that expired, that the Bureau of Land Management would cut you off and not give you the right to continue to graze land while they are going through the reissuing of the permit process.

I don't know of a single case where that has happened. The BLM goes out of its way to continue the grazing rights of these livestock operators, even while they are debating the terms of the new permit.

The suggestion has been just the opposite—that they somehow want to get the ranchers off the land. The only time I have read about that is in a situation where they have a rancher or a livestock operator using Federal land in a way they think is harmful to the environment. I think that is reasonable because BLM has a responsibility to protect those public lands from environmental damage.

Let me also address one other thing. The Senator from Montana got up and said there are people managing Yosemite and Yellowstone. There is buffalo and wildlife there, and many of them can destroy land just like any other livestock. I bet that is true. I don't question that it is true. He also went on to say that he thought when it came to range management that we should basically leave it up to the livestock operators to decide what is good for the land. I think that was his conclusion. I think this is a fair summary of his conclusion. I guess in some instance that would be true.

In my home State of Illinois, there are farmers who are responsible environmentalists. They think twice before they apply chemicals. They think about the right thing to do to avoid the loss of good topsoil, and about siltation going into the streams that run into the water supplies of surrounding towns. My hat is off to them. I usually spend Earth Day with farmers because I respect a lot of them. They take this

very seriously. I will tell you that conversely there are some I wouldn't put in that category. There are good and bad.

But let me tell you what the BLM has to say about the acreage that is being grazed by livestock now under their control. They estimate that only about a third of a total 160 million acres grazed by livestock are in good or excellent ecological condition—one-third. Worse yet, even a higher percentage—almost 70 percent of riparian areas, streams, and rivers and their associated fish and wildlife habitat—are in a damaged condition: A third in good condition; 70 percent near streams in bad condition. The General Accounting Office attributes the vast majority of these resource deficiencies to abusive and excessive grazing practices.

When I come before you and show this photo, they say this isn't the real world. But the statistics suggest that overwhelmingly this is the real world. This is a grazing situation where, unfortunately, someone put cattle on this land, and they grazed it down until it looked like a desert. For 3 years after bankruptcy, the land had a chance to recover in the Santa Maria River area of western Arizona. This is what we have to show for it.

What I am suggesting is that the statistics and the studies do not back up the statements on the floor which suggest that this land is being managed so well. There is a need for the BLM. There is a need for the environmentalists. There is a need for public comment.

That is what I think needs to be protected. That is what section 116 would deny us. Frankly, that is what this debate is all about.

It has been the suggestion of my friend from New Mexico—not a suggestion but his notation of the rules of the Senate—that when the time comes for a vote that I am required by the rules of the Senate to remove this photo from the floor. So my colleagues who have not been here for this debate cannot come in and see exhibit No. 1, in my case, for the passage of my amendment. I can understand it. I know why the Senator from New Mexico doesn't want my colleagues to look at this photo. This tells the story as to what section 116 is all about.

I made it a point—because I have such high respect for the chairman from New Mexico—to ask those who are well versed in the rules of the Senate. Once again, the chairman from New Mexico is right. I have to remove this photo under the Senate rules. I will probably appeal that to the Supreme Court at some later time. But, for today, I am going to, obviously, follow the rules of the Senate.

But it is of interest to me that the Senator from New Mexico doesn't want our colleagues to see this photograph. I hope they are watching it as we broadcast this debate on the Senate floor. It tells the story.

This is the bottom line. The BLM is going to process these applications. They are going to get them done on time. There is no need for this amendment. They are going to take a look. In the rare case where they find a livestock operator who is misusing Federal lands that he is getting for a bargain price—where he is misusing land, destroying the ecology, endangering species, and destroying riverbeds and riparian areas—they are going to make him sign a change. If the Senator from New Mexico prevails, they will lose the authority to do that. They will have to renew the permit under the old conditions.

That is my objection to it. That is why I think it should be stricken.

I sincerely hope we have a better outcome on the vote. If my colleagues have followed the debate and have had a chance to see this photo, which concerns my colleague so much, I am hoping they will support me in my motion to strike section 116.

I yield the floor.

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senator be permitted to leave his picture up for the vote.

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

Mr. DURBIN. May I respond to my colleague from New Mexico?

Mr. DOMENICI. The Senator has been responding for 20 minutes.

Mr. DURBIN. The Senator from New Mexico is a gentleman, a scholar, and will receive a reward, I am sure, from the civil liberties group for defending the first amendment.

Mr. DOMENICI. Senator, let me say the idea of putting posters around has proliferated. I don't think we ought to add more to the confusion of a vote by having them around. I had no intention to pass judgment on the validity of your exhibit, which I find very difficult to interpret and rather irrelevant, but besides that, I don't have anything to say about it.

Let me say, why strike a provision that the Federal Government's inaction cries out to be left in this bill, which was signed by the President last year? I might even tell my friend from Illinois, can you believe it, I talked to him personally on this issue because he wanted to understand what the hoopla was about. I will not paraphrase him, but he signed the bill with this provision in it. It does no one any harm, and nothing has happened to say it has hurt the environment in this past year. And this issue has nothing in the world to do with how much ranchers are paying.

If we ever get into a debate upon the issue of, are they getting a great deal from the Government, I will bring from my State name after name of ranchers who are just not even making a living on the Federal domain today. Whatever price he suggested, they just can't hardly make a living under the rules and regulations of the U.S. Government.

That has nothing whatever to do with this issue. The assertion is not correct that the BLM has to leave correctable degradation in place and issue a new permit while damage could continue on the property. Read the amendment. Whatever power the Bureau of Land Management has, it keeps. That means if they issue a permit and they had the authority to make a correction to its terms to fix a problem, they still have it. Nothing is missing.

This provision lets the rancher feel a little more comfortable. He is not as denuded and vulnerable by having no permit until they get ready to issue it to him after they finish processing, which in the past would have taken a couple of years, maybe 2½ years. Now BLM is getting closer to finishing processing of all the expiring permits. I am glad. The amendment is working.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I believe the Senator from Illinois wanted a rollcall. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. I ask unanimous consent we lay this amendment aside and proceed to an amendment by the Senator from Oklahoma.

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

The Senator from Oklahoma.

AMENDMENT NO. 3812

(Purpose: To provide $7,372,000 to the Indian Health Service for diabetes treatment, prevention, and research, with an offset)

Mr. INHOFE. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself and Mr. NICKLES, proposes an amendment numbered 3812.

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

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. . Notwithstanding any other provision of this Act—

(1) $7,372,000 shall be available to the Indian Health Service for diabetes treatment, prevention, and research; and

(2) the total amount made available under this Act under the heading ''NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES'' under the heading ''NATIONAL ENDOWMENT FOR THE ARTS'' under the heading ''GRANTS AND ADMINISTRATION'' shall be $97,628,000.

Mr. INHOFE. After going through that rather lengthy amendment of the Senator from Illinois, there should be a little relief that this amendment should not be controversial. This amendment takes the amount of money that was increased—increased—to the National Endowment for the

Arts and transfers that to a fund for Indian diabetes. It is the Indian Health Service for Diabetes.

Probably the least understood illness in this country is that of diabetes among Indians. It is a chronic disease. It has no cure. There are two different types. Type II is what we are addressing, diabetes among adults. Among American Indians, 12.2 percent of those over age 19 have diabetes. This is the highest risk of any ethnic group.

One Pima tribe in Arizona has the highest rate of diabetes in the world, about 50 percent of the tribe between the ages of 30 and 64. In Oklahoma, a lot of people are not aware, during the 1990 census, preliminary figures show the largest percentage of Indian population and the largest number of Indians of any of the 50 States. We spent a lot of time talking to our Indian population and looking at the problems that are peculiar to that population.

Not long ago, I spent some time at an Indian hospital in Talihina, OK, operated by the Choctaws. Case studies include one young male patient I talked to, 20 years of age, who already has been partially blinded with diabetes. He is already suffering from renal failure. He has a 40-year-old father who has gone blind. They recently had to amputate his leg, and probably the other one will go next. In one family, the father and mother both have type II diabetes. The mother is going to start dialysis next month. The son, who is 20 years old, has eye and kidney damage. The daughter is 17 years old and suffered a stroke, requiring weekly medical care. She has a 3-year life expectancy. The average life expectancy of the American Indian patient with diabetes is only 45 to 50 years.

It is very peculiar to the Indian population. It is very clear to see our money is better spent there and we can actually try to do something through research, through medication, through programs, to get the Indian population where they can be treated, where they know how to deal with infections they don't know how to deal with now.

It is unacceptable that, nationwide, 12.2 percent of the Indian adult population has type II diabetes. There is no cure. It is not a lot of money but will go a long way toward saving lives, not just in Oklahoma but in the Indian population all over the country.

The PRESIDING OFFICER. The Senator from Washington State.

Mr. GORTON. Mr. President, with all respect, it seems to this Senator that this amendment is more about the National Endowment for the Arts than it is about the Indian Health Service.

To give a comparison, the amount of money for the Indian Health Service in this bill is more than $2.5 billion. The amount for the National Endowment for the Arts cultural institutions is $105 million. As a consequence, this amendment would add to the Indian Health Service something less than one-third of 1 percent of the budget of the Indian Health Service —something less than one-third of 1 percent. It would subtract from the National Endowment for the Arts some 7 percent of the amount of money appropriated to it.

Our bill provides a $143 million increase for the Indian Health Service for next year over the current year, more than the entire appropriation for the National Endowment for the Arts. I find it ironic it was less than an hour ago that this Senator was praised by the Senator from New Mexico, who is a vocal advocate for the Indian Health Service, for the generosity with which we were treating that service.

Of the amount we are talking about for the Indian Health Service, $56 million is specifically for improved clinical services, which obviously could include diabetes treatment and prevention efforts. But even more significant in connection with this amendment is the fact that the Balanced Budget Act of 1997 provides $30 million a year for 5 years specifically to accelerate diabetes efforts for Native Americans. This year is the fourth such year. So there is $30 million for the fourth consecutive year for the specific purpose of this amendment.

On the other hand, the National Endowment for the Arts has not had a single increase in its funding since 1992. In many respects, the $7 million increase for the National Endowment for the Arts is symbolic; $7 million is real, but in a sense it is symbolic—but it is an important symbol. It is far less than the President's budget has in it. In fact, one of the elements in the long letter from the Executive complaining about this bill is that we are not generous enough with the National Endowment for the Arts.

But when we had our great debates on that subject during the mid-1990s, one of the focal points of the debate was that the National Endowment for the Arts was not using its money correctly and was funding objectionable artistic efforts, objectionable groups, and organizations and individuals. In the intensity of the debate, I believe in 1995 and 1996, an extensive list of reforms was imposed on the National Endowment for the Arts with respect to the way in which it spent its money and made its grants.

Now far more of its money goes to grants to the States. More of its money is spread more broadly around the United States, particularly to relatively small communities rather than a concentration in New York and Washington, DC, and Los Angeles and San Francisco. In other words, the very reforms that were demanded by the Congress have been, I think, cheerfully and thoroughly carried out by the National Endowment for the Arts in a manner quite responsive to what Congress asked for. To continue to punish the Endowment for the sins of its predecessors, or the supposed sins of its predecessors, seems to me to be perverse. I do not believe it appropriate for literally the 10th straight year either to reduce or freeze the appropriation for the National Endowment for the Arts.

I would have to say I think it is doing good work. It is one of those fields in which relatively small grants provide sort of a Good Housekeeping Seal of Approval to a multitude of arts organizations around the country, and provides a tremendous help to them in securing private contributions for their efforts. Some say the money that we provide through the National Endowment for these organizations comes back tenfold, fiftyfold, a hundredfold in private and local contributions.

It does seem to me long past time that we recognize the changes in the National Endowment and reward them for a job well done, even though the reward contained in this bill is modest. I said 2 days ago when this debate began that last year we included such a modest increase. The House was adamant about freezing the appropriation for the Endowment and we ultimately receded to the House. I said then I don't intend that should happen this year. I think it is time for the House to recede to us. I think it is time to deal fairly with an important part of the culture of the United States, and I think this amendment is unnecessary for the purpose for which it is stated because we have far more money in the bill already for the purpose of this amendment than is included in the amendment itself.

I believe we should leave this modest increase and encourage the National Endowment for the Arts to continue the good work and to continue to follow the dictates of this Congress about the way in which it does that work, rather than to continue to punish it for perceived past sins which I am now convinced have long since been cured.

For that reason, Mr. President, I oppose the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Washington for his comments. I do not agree, obviously. I do think, though, I find two reasons to disagree with his arguments: One, to use percentages, as to what percentage this represents that would be decreased from the NEA as opposed to increase for diabetes because of the seriousness of this; the second thing is why carry this into a discussion and a debate on the merits of the National Endowment for the Arts.

If we were to do that, I would be glad to join in that debate. In fact, I voted many times to defund the National Endowment for the Arts. However, that is not this amendment. Right now they have, from last year, $97 million, the NEA, and they are talking about not keeping it level but increasing it by $7.3 million. I am saying the $7.3 million is going to end up saving lives, particularly lives of Indians with diabetes, as opposed to rewarding and increasing the appropriation to the NEA.

I think we need to look at it in that light. As I said, it is just incredible for

people to comprehend the seriousness of this affliction among the Indian population. Yes, I am prejudiced. Yes, the State of Oklahoma has the largest number of Indians of all 50 States, and there are a lot of States that do not have that concern. I can tell you right now, we are going to do everything we can.

What the Senator from Washington says is true. We have increased it by some $30 million and it is going to be increased again over the next 4 years. However, every incremental increase is going to have a very positive effect on the research and the treatment of the Indians with diabetes. So I am going to ask for the yeas and nays on this for a vote.

Mr. President, 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.

Mr. INHOFE. I have no objection to setting it aside and voting when we vote on the rest of the amendments.

Mr. GORTON. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have.

Mr. GORTON. I ask unanimous consent the vote on the amendment be set aside. I had told Senator BRYAN we could go to him next. Does the Senator from Alabama——

Mr. SESSIONS. I had an amendment I did want to talk on tonight. I wanted to take 2 minutes on one other subject, to thank the distinguished floor leader of the bill. I could do one of those, if Senator BRYAN is ahead of me. I have been here longer than he has, I think.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Washington for his understanding and support, accepting an amendment I offered involving the Rosa Parks Museum in Montgomery, AL. Last year, about this time, Senator ABRAHAM and I submitted a bill to give a Congressional Gold Medal to Rosa Parks. That bill was passed in the Senate and the House, and the President presented it to her last summer in the Rotunda of the Capitol in a most remarkable ceremony.

Rosa Parks, as most people know, was a native of Alabama, Tuskegee. She moved to Montgomery. She was a seamstress. She was riding on a bus one day, the bus was full and she was tired, and simply because of the color of her skin she was asked to go to the back of the bus and she refused and was arrested. That arrest commenced the Montgomery Alabama bus boycott over that rule, leading to a Federal court lawsuit that went to the Supreme Court, in which the Supreme Court held that kind of segregated public transportation was not legal and could not continue.

The leader of that boycott turned out to be a young minister at Dexter Avenue Baptist Church by the name of Martin Luther King, Jr. The Federal judge who originally heard the case was Frank M. Johnson, Jr., one of the great Federal judges in civil rights in American history, as far as I am concerned. Fred Gray was an attorney involved. Mr. Fred Gray, one of the first black attorneys in Montgomery, told the story in his book ''Bus Ride To Justice.'' How little did they know that the events they started on that day in 1955 would commence a movement that has reverberated, not only in Montgomery, in Alabama, but throughout the United States and, in fact, throughout the world, to a claim for rights and freedom and equality—great ideals.

Troy State University in Montgomery, a 3,000-student university, is building a museum and library on the very spot of this arrest. These funds will help create in that building a museum to Rosa Parks with an interactive video friendly to visitors and children about the story of what happened on that day and the importance of it.

I thank the distinguished Senator from Washington for supporting us in this effort.

I see Senator BRYAN. Mr. President, I say to him, I had 15 minutes on an amendment I called up earlier. Would it be all right for me to go ahead? I have a time crisis.

Mr. BRYAN. I inquire of the Chair, there is a unanimous consent agreement that at 6:30 p.m. draconian things happen. I do not want to be precluded from offering my amendment.

Mr. GORTON. Will the Senator yield?

Mr. BRYAN. I will be happy to yield.

Mr. GORTON. The majority leader said 6:30 p.m. can come and go. If there is a prospect of finishing this bill tonight, the defense debate will be diverted. I think we can finish, I hope, by 8 o'clock this evening. The Senator is protected.

Mr. BRYAN. As long as I am protected, I will be happy to yield to my friend from Alabama, and I ask unanimous consent that I be next in line for the purposes of offering an amendment after our distinguished colleague from Alabama.

Mr. GORTON. I put that in the form of a unanimous consent request.

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

Mr. BRYAN. I thank the distinguished floor manager.

Mr. DOMENICI. Mr. President, I ask the Senator to yield 30 seconds for an inquiry. I have an amendment that is pending with reference to a water situation in my State. I ask unanimous consent to follow Senator BRYAN whenever he has finished.

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

The Senator from Alabama.

AMENDMENT NO. 3790

Mr. SESSIONS. Mr. President, I offer amendment No. 3790 to the Interior appropriations bill. It will prevent the Secretary of the Interior from utilizing regulations that he has issued which would grant him the authority to approve class III casino gambling for Indian tribes in States throughout the United States in which class III gambling compacts between the State and a tribe have not been entered.

This amendment had been adopted in the past several years. An identical amendment was accepted last year by voice vote. The original cosponsors already this year are: Senators GRAHAM, REID, BAYH, GRAMS, ENZI, LUGAR, VOINOVICH, and INHOFE. Others are signing on.

Essentially, this amendment will prevent any 2001 funds allocated to the Department of the Interior from being spent on the publication of gaming procedures under the regulations found under part 291 of title 25 of the Code of Federal Regulations, which by now is probably 100,000 pages of regulations issued by the different Secretaries.

The intent of this funding restriction is to render these regulations inoperative next year only so the Department can take no action under the regulations until a case brought by the States of Alabama and Florida concerning the legality of these regulations is first resolved. In fact, Secretary Babbitt himself has expressed on numerous occasions his desire for the Alabama-Florida case to be decided first.

This amendment simply seeks to place the Secretary's public commitments in law to ensure that a Federal court has the opportunity to rule on the validity of these regulations prior to any departmental action next year. This is an important and timely amendment. I urge anyone who is concerned about local control and freedom and concerned about bureaucracy and the spread of gambling within this country to join me in support of this amendment. I want to take a moment to provide some background.

In April of 1999, Secretary Babbitt promulgated final regulations which empower him to resolve gambling controversies between federally recognized Indian tribes seeking to open a class III gambling operation—that is generally casinos—in a State which has not agreed with him to enter into a compact with the tribe or has not agreed to waive its 11th amendment right to exert sovereign immunity from suit.

As a result, tribes located within certain States, such as Alabama and Florida, would be able to use these regulations to obtain class III gambling facilities by negotiating directly with the Secretary of the Interior in Washington, DC, even if the people of the State itself remained opposed to the spread of such gambling or even if the types of gambling sought were illegal under State law.

In my opinion—and the Attorneys General Association of the United States has written us in opposition to this Babbitt rule and regulation and in support of this amendment—in my

opinion, these regulations turn the statutory system created under IGRA, the Indian Gaming Regulatory Act, on its ear because they undercut a State's ability to negotiate with tribes and because it places the gambling decisions in the hands of an unelected bureaucrat who, as a matter of law, also happens to stand in a trust relationship with the Indian tribes, not an unbiased arbiter.

Not only do these regulations offend my notions of federalism, but they also promote an impermissible conflict of interest between the tribes who are asking for a class III gambling license and the Secretary of the Interior who enjoys a special relationship with them. He is not a neutral arbitrator and was never given this power to arbitrate these acts by the Congress. I do not believe these regulations are a valid extension of his regulatory power.

It is breathtaking to me, in fact, and it is another example we in Congress are seeing of unelected, appointed officials, through the power of the Code of Federal Regulations, implanting policies that may be strongly opposed by a majority of citizens. Indeed, none of these people is elected.

My concerns about these gambling regulations were shared by the attorneys general of Alabama and Florida who filed a suit in Federal district court in Florida to challenge the validity. This lawsuit is currently working its way through a Federal court, and its resolution will provide an important initial reading as to whether these regulations are, in fact, legal and constitutional. Allow me to share some of the legal questions raised in the suits.

The States point out that the regulations effectively and improperly amend the Indian Gaming and Regulatory Act because:

> . . . under IGRA, an Indian tribe is entitled to nothing other than an expectation that a State will negotiate in good faith. If an impasse is reached in good faith under the statute, the tribe has no alternative but to go back to the negotiating table and work out a deal. The rules significantly change this——

That is, the rules by Secretary Babbitt—

> by removing any necessity for a finding that a State has failed to negotiate in good faith.

Further, the lawsuit points out:

> The rules at issue here arrogate to the Secretary the power to decide factual and legal disputes between States and Indian tribes related to those rights. Pursuant to 25 U.S.C., section 2 and section 9, the Secretary of the Interior stands in a trust relationship to the Indian tribes of this Nation. The rules set up the Secretary, who is the tribes' trustee and therefore has an irreconcilable conflict of interest as the judge of these disputes—

Between a tribe and a State.

> Therefore the rules, on their face, deny the States their due process and are invalid.

I think the concerns raised by the States are legitimate, that these rules are, in fact, seriously flawed. But do not take my word for it alone. In fact, even Secretary Babbitt admits that the test of legality should be passed first.

On October 12, 1999, the Secretary contacted Senator GORTON—who is managing this bill, and doing an excellent job of it in every way—and wrote him:

> If (a) I determine that a Tribe is eligible for procedures under those regulations, (b) I approve procedures for that tribe, and (c) a State seeks judicial review of that decision, I will not publish the procedures in the Federal Register (a step that is required to make them effective) until a federal court has ruled on the lawfulness of my action.

Similarly, on June 14 of this year, the Secretary wrote Representative REGULA, the chairman of the House Subcommittee on Interior and Related Agencies, to further clarify his position on these regulations. He offered these thoughts:

> I feel it is very important for the court to clarify and settle the Secretary's authority in this area. I anticipate that the court ruling in the Florida case will be favorable of the Secretary's authority to promulgate the regulation.

I disagree. But he goes on:

> However the Department will defer from publishing the procedures in the Federal Register until a final judgment is issued in the Florida case, whether by the District Court or on appeal.

I have written the Secretary to ask him to write me a similar letter and have not yet heard from him.

All the amendment I am offering would do is to back up those public statements with the force of law, by ensuring that the Department could not spend funds to publish these procedures until a Federal appellate court had finally ruled on them. They would not seek to repeal the regulations, nor would they affect any existing compacts with States that wish to negotiate a compact with a tribe.

Personally, I would support an outright repeal of the regulations, but for now I am content to make the Secretary's own words binding because I believe that legal review of these regulations is needed and proper, and that he should not be allowed to take action until such time as a court has made a final ruling on the merits of these regulations, which are, indeed, breathtaking.

Make no mistake about it, it is an important issue in my State. As I speak, there are reports in the local papers that Alabama's lone federally recognized tribe—we have one tribe—is in the process of finalizing a deal with Harrods, which would result in the future construction of a casino on land operated within the small town of Wetumpka, AL, not far from Montgomery.

No Indians now live on this land. It is land they simply own. It is about 180 miles from the small tribe lands that exist there. Because Alabama has not entered into a compact with the tribe, to allow them to put a casino there, they have gone to the Secretary of the Interior and had him issue regulations that would give them the power to override the State of Alabama's decision not to have casinos anywhere in the State.

They have a power to compact. They have a power to say no on certain things. Alabama does have a dog track. The Indians would be entitled to a dog track. They have bingo and related activities at the Indian tribal lands further to the south in the State, but they are not being allowed, under the State's negotiating position, to have a casino, a position that I would support.

Allow me to quote a few of the public comments that were made concerning this effort. The office of the Governor of Alabama, Governor Siegelman, has stated:

> The governor is ''adamantly opposed'' to casino gambling in any form within the state and will take whatever steps are necessary to stop it.

That is a Democratic Governor.

Attorney General Pryor, a Republican, has stated that the Attorney General:

> . . . will take whatever action necessary to prevent illegal gambling by any Indian tribe in the State of Alabama [because Attorney General Pryor] believes Babbitt has no authority to allow gambling by Indians in states where such gambling is prohibited by law.

Representatives EVERETT and RILEY oppose any future casino development.

Mayor Jo Glenn of Wetumpka—I think everybody in the city council has written me about it—has expressed her strong opposition to the presence of a casino in her town and wrote me:

> Our infrastructure and police and fire departments could not cope with the burdens this type of activity would bring. The demand for greater social services that comes to areas around gambling facilities could not be adequately funded. Please once again convey to the Secretary our City's strong and adamant opposition to the establishment of an Indian Gambling facility here.

The Secretary does not have to live with the community whose nature is changed overnight by a major Harrods gambling facility. He does not live in that community. He is not elected. He is not answerable to anybody. Yet he thinks he has the power to tell them what they have to do and dramatically change the nature of that town and the lives of the people who live there. No, sir.

The Montgomery Advertiser wrote:

> Direct Federal negotiations with tribes without State involvement would be an unjustifiably heavy handed imposition of authority on Alabama. The decision whether to allow gambling here is too significant a decision economically, politically, socially to be made in the absence of extensive State involvement. A casino in Wetumpka—not to mention the others that would undoubtedly follow in other parts of the State—has implications far too great to allow the critical decisions to be reached in Washington. Alabama has to have a hand in this high stakes game.

Unelected and unaccountable, the Secretary of the Interior has issued regulations that would completely change the nature of beautiful Wetumpka, a bedroom community to Montgomery, AL, and a historic community in its own right, against its will. It is a shocking and amazing event, in my view.

Clearly, the unmistakable sentiments of the Alabama public can be heard through these diverse voices. Not only would the regulations allow the tribe to obtain permission to engage in activity that is currently illegal under Alabama law, but the actual placement of the casino itself would result in the destruction of an important archaeological site that is listed on both the National Register of Historic Places and the Alabama Historical Commission and the Alabama Preservation Alliance's list of historic ''Places in Peril.''

The site that is most frequently mentioned for development is known as Hickory Ground, and it is an important historical site that served as the capital of the National Council of the Creek Indians, and was visited by Andrew Jackson, and which contains graves and other important subsurface features.

The site is, in fact, revered by other Creek Indian groups within the State and the Nation, as represented by the comments of Chief Erma Lois Davenport of the Star Clan of Muscogee Creeks in Goshen in Pike County who stated:

> Developers' bulldozers should not be allowed to destroy the archaeological resources at the Creek site.

What is ironic about the choice of this site by the tribe is that the land was acquired by the tribe in 1980 in the name of historic preservation in an attempt to prevent the previous landowner from developing the site for commercial purposes.

In fact, the tribal owners of this site once wrote:

> The property will serve as a valuable resource for the cultural enrichment of the Creek people. The site can serve as a place where classes of Creek culture may be held. The Creek people in Oklahoma have pride in heritage, and ties to original homeland can only be enhanced. There is still an existing Hickory Ground tribal town in Oklahoma. They will be pleased to know their home in Alabama is being preserved.

As you can see, should the tribe receive the ability to conduct class III gambling and construct a casino, Alabama will run the very real risk of losing an important part of its cultural heritage, as will Creek peoples throughout the country.

It is for these reasons I am offering this amendment. We should not allow these gaming regulations to go into effect until we have had a final ruling of the court. We should not allow the Secretary of Interior to promulgate these regulations when he has an untenable conflict of interest. I think it is appropriate to put a 1-year moratorium on it.

I am glad to have broad bipartisan support from Senators GRAHAM, REID, BAYH, GRAMS, INHOFE, VOINOVICH, LUGAR, and ENZI.

I ask unanimous consent that Senator MACK be added as a cosponsor of the amendment.

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

Mr. SESSIONS. This is an important matter, Mr. President. I care about it. I believe it is important from a governmental point of view. The Chair understands, as a former Governor, the importance of protecting the interest of the State to make decisions the people of the State care about and not have them undermined or overruled by unelected bureaucrats in Washington.

I ask unanimous consent to print in the RECORD a letter to me from the Attorney General of the State of Florida, Robert Butterworth, and a letter from the Attorney General of the State of Alabama detailing eloquently their objections to the Babbitt regulations.

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

STATE OF FLORIDA,
OFFICE OF ATTORNEY GENERAL,
July 12, 2000.

Re Amendment to H.R. 4578

Hon. JEFF, SESSIONS,
United States Senate, Washington, DC.

DEAR SENATOR SESSIONS: This letter is presented in support of the rider that you will be sponsoring on the Interior Appropriations Bill preventing the Secretary of the Interior from issuing procedures which would allow class III gambling on Indian lands in the absence of a Tribal-State compact during the fiscal year ending September 31, 2001. Such a rider would be welcomed by the State of Florida and I strongly support your effort to so restrict the actions of the Secretary.

In April of 1999, the Secretary promulgated final rules allowing him to issue procedures which would license class III gambling on Indian lands in a State where there has been no Tribal-State compact negotiated as required by section 2710(d) of the Indian Gaming Regulatory Act. Florida and Alabama immediately challenged those regulations asserting that they are in excess of the authority delegated to the Secretary by Congress in IGRA and that they are inconsistent with IGRA's statutory scheme. In letters to various members of Congress, the Secretary stated that he would allow the litigation to conclude prior to finalizing any such procedures through publication in the Federal Register. During recent deliberations on a House measure similar to the one you propose, the Secretary indicated that he would forbear publication until after the completion of any appeals.

Such a promise by the Secretary is not legally binding on this Secretary or any successor. If the trial court rules in his favor and the States appeal, the State of Florida faces the prospect of the Secretary publishing final procedures for Florida Tribes thereby licensing full scale casino gambling on Indian lands in our state while the appeal is pending. Should the States prevail on appeal and the Secretary's actions are determined to be invalid by either the Court of Appeals or the Supreme Court, Florida will be faced with an intolerable situation. The Tribes will have invested in and opened full scale casinos which will then be deemed illegal under IGRA. In the past, the federal government has been either unable or unwilling to see that the requirements of the law—IGRA—be faithfully enforced. Both the Seminole and Miccosukee Tribes in Florida have for some time operated uncompacted class III gambling operations with no response from the responsible federal officials.

I believe that your proposal is in order. The proposal is consistent with the Secretary's position that the court should be given an opportunity to rule on the validity of his regulations prior to the implementation of any gambling purporting to be licensed under them. By preventing the Secretary from acting in the next fiscal year, the proposal protects all concerned from a miscarriage of justice and will inject the certainty necessary for proper relations among the parties to this dispute.

Thank you again for your continued attention to this very important matter and I remain at your service to help in any way I can.

Sincerely,

ROBERT A. BUTTERWORTH,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
STATE OF ALABAMA,
July 11, 2000.

Re Sessions-Graham Amendment to H.R. 4578

Senator JEFF SESSIONS,
United States Senate,
Washington, DC.

DEAR SENATOR SESSIONS: I write in support of the amendment that you and Senator Graham have proposed to H.R. 4578, the FY 2001 appropriations bill for the Department of the Interior, which would prohibit the Secretary of the Interior from using appropriated funds to publish Class III gaming procedures under part 291 of title 25, Code of Federal Regulations.

As you know, substantial questions have been raised regarding the Secretary's authority to promulgate Indian gaming regulations. At the Notice and Comment stage, the Attorneys General of several states, including Alabama, pointed out that the Secretary lacked statutory authority to promulgate procedures that would allow Indian tribes to obtain gaming compacts from Interior rather than by negotiation with the States. The Attorneys General also pointed out that the Secretary had an incurable conflict of interest that would preclude his acting as a mediator in disputes between the tribes and the States because he is a trustee for the tribes and owes them a fiduciary duty. After the Secretary overrode these objections and promulgated Indian gaming regulations, the States of Alabama and Florida filed suit in federal district court to challenge the Secretary's action. That lawsuit remains pending.

The proposed rider preserves the status quo and allows the federal courts to resolve the issues raised in the lawsuit filed by Alabama and Florida. More particularly, the rider precludes the Secretary from spending appropriated funds to take the last step necessary to allow a tribe to conduct Class III gaming over State objection. The Secretary should withhold this final step until the Alabama and Florida lawsuit has been resolved and all appeals are precluded.

The rider will not only preserve the status quo, it will preclude injury to the States and any tribe that may rely to its detriment on Secretarial action that has not been conclusively held to be statutorily authorized.

Very truly yours,

BILL PRYOR,
Attorney General.

The PRESIDING OFFICER. Does the Senator seek to make his amendment the pending amendment?

Mr. SESSIONS. I ask unanimous consent the amendment be made the pending amendment.

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

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise today as I have in prior years to oppose the amendment proposed by my colleague, Senator SESSIONS, related to Indian gaming.

I have had the privilege of serving on the Committee on Indian Affairs for 20 years now.

Over the course of that time, I have learned a little bit about the state of Indian country, and the pervasive poverty which is both the remnant and result of too many years of failed Federal policies

There was a time in our history when the native people of this land thrived.

They lived in a state of optimum health.

They took from the land and the water only those resources that were necessary to sustain their well-being.

They were the first stewards of the environment, and those who later came here, found this continent in pristine condition because of their wise stewardship.

Even after the advent of European contact, most tribal groups continued their subsistence way of life.

Their culture and religion sustained them.

They had sophisticated forms of government.

It was so sophisticated and so clearly efficient and effective over many centuries, that our Founding Fathers could find no other better form of government upon which to structure the government of our new Nation.

So they adopted the framework of the Iroquois Confederacy—a true democracy—and it is upon that foundation that we have built this great Nation.

Unfortunately, there came a time in our history when those in power decided that the native people were an obstacle, and obstruction to the new American way of life and later, to the westward expansion of the United States.

So our Nation embarked upon a course of terminating the Indians by exterminating them through war and the distribution of blankets infested with smallpox.

We very nearly succeeded in wiping them out.

Anthropologists and historians estimate that there were anywhere from 10 to 50 million indigenous people occupying this continent at the time of European contact.

By 1849, when the United States finally declared and end to the era known as the Indian Wars, we had managed to so effectively decimate the Indian population that there were a bare 250,000 native people remaining.

Having failed in that undertaking, we next proceeded to round up those who survived, forcibly marched them away from their traditional lands and across the country.

Not surprisingly, these forced marches—and there were many of these ''trails of tears''—further reduced the Indian population because many died along the way.

Later, we found the most inhospitable areas of the country on which to relocate the native people, and expected them to scratch out a living there.

Of course, we made some promises along the way:

That in exchange for the cession by the tribes of millions of acres of land to the United States, we would provide them with education and health care and shelter.

We told them, often in solemn treaties, that these new lands would be theirs in perpetuity—that their traditional way of life would be protected from encroachment by non-Indians and that we would recognize their inherent right as sovereigns to retain all powers of government not relinquished.

Their rights to hunt and fish and gather food, to use the waters that were necessary to sustain life on a reservation and the natural resources, were also recognized as preserved in perpetuity to their use.

But over the years, these promises and others were broken by our National Government, and our vacillations in policies—of which there were many—left most reservation communities in economic ruin.

It might interest my colleagues in the Senate to know that the Government of the United States entered into 800 treaties with Indian nations, sovereign nations. Of the 800 treaties, 470 were filed. I presume they are still filed in some of our cabinets. Three hundred seventy were ratified. Of the 370 treaties ratified by this Senate, we found it necessary to violate provisions in every single one of them.

The cumulative effects of our treatment of the native people of this land have proven to be nearly fatal to them.

Poverty in Indian country is unequaled anywhere else in the United States.

The desperation and despair which inevitably accompanies the pervasive economic devastation that is found in Indian country accounts for the astronomically high rates of suicide and mortality from diseases.

Within this context, along comes an opportunity for some tribal governments to explore the economic potential of gaming.

It doesn't prove to be a panacea, but it begins to bring in revenues that tribal communities haven't had before.

And then the State of California enters the picture by bringing a legal action against the Cabazon Band of Mission Indians—a case that ultimately makes it to the Supreme Court.

Consistent with 150 years of Federal law and constitutional principles, the Supreme Court rules that the State of California cannot exercise its jurisdiction on Indian lands to regulate gaming activities.

This is in May 1987, and in the aftermath of the Court's ruling, attention turns to the Congress.

Mr. President, it was now in the 100th session of the Congress that I found myself serving as the primary sponsor of the Indian Gaming Regulatory Act of 1988.

There were many hearings and many drafts leading up to the formulation of the bill that was ultimately signed into law.

Intially, our inclination was to follow the well-established and time-honored model of Federal Indian law—which was to provide for an exclusive Federal presence in the regulation of gaming activities on Indian lands.

Such a framework would be consistent with constitutional principles, with the majority of our Federal statutes addressing Indian country, and would reflect the fact that as a general proposition—it is Federal law, along with tribal law, that governs most all of what may transpire in Indian country.

But representatives of several States came to the Congress—demanding a role in the regulation of Indian gaming—and ultimately, we acquiesced to those demands.

We selected a mechanism that has become customary in the dealings amongst sovereign governments.

This mechanism—a compact between a State government and a tribal government—would be recognized by the Federal Government as the agreement between the two sovereigns as to how the conduct of gaming on Indian lands would proceed.

This Federal recognition of the agreement would be accompanied when the Secretary of the Department of the Interior approved the tribal-State compact.

In an effort to assure that the parties would come to the table and negotiate a compact in good faith, and in order to provide for the possibility that the parties might not reach agreement, we also provided a means by which the parties could seek the involvement of a Federal district court, and if ordered by the court, could avail themselves of a mediation process.

That judicial remedy and the potential for a mediated solution when the parties find themselves at an impasse has subsequently been frustrated by a ruling of the Supreme Court upholding the 11th amendment immunity of the several States.

Thus, while there are some who have consistently maintained that sovereign immunity is an anachronism in contemporary times, in this area at least, the States still jealously guard their sovereign immunity to suit in the courts of another sovereign.

In so doing, the States have presented us with a clear conflict, which we have been trying to resolve for several years.

Although 24 of the 28 States that have Indian reservations within their boundaries have now entered into 159 tribal-State compacts with 148 tribal governments, there are a few States in which tribal-state compacts have not been reached.

And the conflict we are challenged with resolving is how to accommodate the desire of these States to be involved in the regulation of Indian gaming and their equally strong desire to avoid any process which might enable the parties to overcome an impasse in their negotiations.

The Secretary of the Interior is to be commended in his efforts to achieve what the Congress has been unable to accomplish in the past few years.

Following the Supreme Court's 11th amendment ruling, the Secretary took a reasonable course of action.

He published a notice of proposed rulemaking, inviting comments on his authority to promulgate regulations for an alternative process to the tribal-State compacting process established in the Indian Gaming Regulatory Act.

Thereafter, he followed the next appropriate steps under the Administrative Procedures Act, inviting the input of all interested parties in the promulgation of regulations.

When the Senate acted to prohibit him from proceeding in this time-honored fashion, he brought together representatives of the National Governors Association, the National Association of Attorneys General, and the tribal governments, to explore whether a consensus could be reached on these and other matters.

In the meantime, my colleagues propose an amendment that would prohibit the Secretary from proceeding with the regulatory process.

Once again, there have been no hearings on this proposal—no public consideration of this formulation—no input from the governments involved and directly affected by this proposal.

Last year, the Secretary of the Department of the Interior made clear his intention to recommend a veto of the Interior appropriations bill should this provision be adopted by the Senate and approved in House-Senate conference.

I suggest that it is unlikely that the Secretary's position has changed in any material respect—particularly in light of all that he has undertaken to accomplish, including frank discussion amongst the State and tribal governments.

As one who initiated a similar discussion process several years ago, I am more than a little familiar with the issues that require resolution.

However, in the intervening years, court rulings have clarified and put to rest many of the issues that were in contention in that earlier process.

I have continued to talk to Governors and attorneys general and tribal government leaders on a weekly, if not daily basis, and I believe, as the Secretary does, that the potential is there for the State and tribal governments to come to some mutually acceptable resolution of the matters that remain outstanding between them.

I believe the Secretary's process should be allowed to proceed.

I also believe that pre-empting that process through an amendment to this bill could well serve as the death knell for what is ultimately the only viable way to accomplish a final resolution.

The alternative is to proceed in this piecemeal fashion each year—an amendment each year to prohibit the Secretary from taking any action that would bridge the gap in the Indian Gaming Regulatory Act that was created by the Court's ruling and which will inevitably discourage the State and tribal governments from fashioning solutions.

This is not the way to do the business of the people.

There are those in this body who are opposed to gaming.

As many of my colleagues know, I count myself in their numbers. I am opposed to gaming.

Hawaii and Utah are the only two States in our Union that criminally prohibit all forms of gaming, and I support that prohibition in my State.

But I have walked many miles in Indian country, and I have seen the poverty, and the desperation and despair in the eyes of many Indian parents and their children.

I have looked into the eyes of the elders—eyes that express great sadness.

I have met young Indian people who are now dead because they saw no hope for the future.

And I have seen what gaming has enabled tribal governments to do, for the first time—to build hospitals and clinics, to repair and construct safe schools, to provide jobs or the adults and educational opportunities for the youth—and perhaps most importantly, to engender a real optimism that there can be and will be—the prospects for a brighter future.

It is for these reasons, and because of their rights as sovereigns to pursue activities that hold the potential for making their tribal economies become both viable and stable over the long term, that I support Indian gaming.

And it is for these reasons, that I must, again this year, strongly oppose the efforts of my colleagues to take from Indian country, what unfortunately has become the single ray of hope for the future that native people have had for a very long time.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I just have a minute and then I will yield to Senator CAMPBELL.

Mr. President, Alabama has one very small tribe of a few hundred people down at the south end of the State, near my home of Mobile. This land is around Montgomery, 150 miles further north, and there are no Indians living on it, where they want to build this casino.

The tribe is a group of the finest people I know. The chief tribal administrator, Eddie Tullis, is a long time friend of mine. I admire him. I admire what they have done. They have a bingo parlor that has been successful and is doing well. They have a motel and a restaurant that I eat at frequently. I love the people who are there. I care about them. Eddie Tullis recently said in the paper: JEFF is OK. He is just letting his morality get in the way of his good judgment.

I didn't know whether I should take that as a compliment, or what.

But my view is simply this: I don't think IGRA would have passed if the people in the Senate and the House thought that if a State said to the tribe: You can have horse racing, you can have dog racing, you can have bingo, as we have in Alabama, but we are not going to remove casino gambling from the State.

That is the question I have.

The Secretary of Interior is talking about stepping into this dispute and taking the position that he alone can decide what is done.

I care about the fine Indian people who are members of the Poarch Band in Atmore, AL. I have visited that area many times. I know quite a number of them personally. This isn't a personal thing. I think they understand it. It is matter of law. I was former Attorney General of the State of Alabama. I don't believe this is good policy.

We ought to pass this amendment.

I see Senator CAMPBELL, whom I respect highly. I know he wants to speak on the matter.

I yield to Senator CAMPBELL.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I thank my friend.

Mr. President, certainly there are Members of this Chamber who are downright against gaming. I understand that. As Senator INOUYE mentioned, even his State has no gaming. But I do not believe that is what this debate is about. For me, very frankly, it is about whether we keep our word or we do not keep our word.

The Senator mentioned that literally for every treaty ever signed by the Federal Government, Indian tribes ended up losing by virtue of the Government breaking the treaty.

No one speaks more eloquently than Senator INOUYE about the destructive forces that have been heaped upon American Indians at the hands of the U.S. Government. I think he does it very eloquently because of his own background. He is a man of great bravery, who just received America's highest award. He is a Medal of Honor recipient. Yet he fought in a war during which his own people were interned in camps at the hands of the Federal Government. Certainly, Senator INOUYE is held in the highest esteem throughout Indian country, as he is in this body.

But I think many of our colleagues ought to study the old treaties, even though most of them were broken—not all—by the Federal Government. Indian people have a very special relationship with the Federal Government. It would do us well if we read some of the old promises we made and didn't keep.

The Senator talked a little about the problems we have on reservations. But

I don't think it is really understood by people who spend most of their time, as we say, ''outside the reservation.'' You ought to go to Pine Ridge, SD, where unemployment is 70 percent, usually. It is rarely less than 50 percent. It is sometimes higher than 70 percent—where every third young lady tries suicide before she is out of her teenage years; and young men, too. Too many of them succeed.

With fetal alcohol syndrome compared to the national average, 1 out of every 50,000 babies born in America suffers from fetal alcohol syndrome. For those who do not know what that is, that is a disease they get when they are inside of their mother because their mother drinks. It is about 1 out of 50,000 nationwide. But in Pine Ridge, SD, in some years it is 1 out of 4 babies. It is a disease that is totally preventable. Yet it is incurable once they have it. They get it from their mother drinking too much. They are institutionalized for life, at a huge cost in terms of human tragedy and the American taxpayer.

If you had those numbers in any town in America—whether it is the high school dropout rate, or the suicide rate, whether it is death by violent actions, whether it is fetal alcohol syndrome, or anything else—if you had anything near that in the outside culture, it would be considered devastating to that community. Believe me, people would be here on the floor clamoring for the Senate to do something about it.

There are very few things that work on Indian reservations that try to bring new money to the reservation.

In 1988, when Senator INOUYE was the leader on the Senate side on the Indian Gaming and Regulatory Act, and I was on the House side as one of the people involved originally in the writing of that bill, certainly then none of us knew that it would grow to such proportions. But clearly it has done some good. It is not all good. Obviously, there are stresses and pressures. When you increase any kind of economic activity in a local community, there are more people on the highways. There are more people in the schools and parks. We understand that.

If you look at the outside of it in terms of what it has done to help youngsters with scholarships, what it has done to help senior citizens who had no other income, and what it has done to provide money for tribes that have been able to invest that money into other enterprises, it is overwhelmingly positive.

I have to tell you that it seems that every year we have to fight this fight. Almost every year, somebody comes down here with a microphone who wants to take a hit at the little opportunities Indians have in Indian country because of gaming.

I point out, my gosh, that I live on the Southern Ute Reservation in Colorado 150 yards from a tribal casino. I see who works it. I see if there is any increase in crime—or other kinds of wild accusations we sometimes hear on the Senate floor. Believe me, they are mostly wrong.

First of all, the majority of people who work in the Indian reservations are not Indian. At least 50 percent in most of the casinos are not Indians. It has helped whole communities. They pay income taxes just as anybody else—Indian people and non-Indian. It has put revenue into the coffers of the Federal Government and State governments.

Under Federal law, in 1988, as you know, tribes were limited to the types of gaming allowed under the laws of the States in which they reside. Some States simply don't allow gaming at all. Therefore, those tribes in those States can't do it. We made sure that the tribes were factored in in 1988. In my own State, tribes are limited to just slot machines and low-stakes table games.

The State of our friend from New Mexico has a little higher limit. Other States have higher limits. But it is with the approval of the States under a contractual agreement between the States and the tribes.

In Utah, there is no gambling whatsoever. Therefore, the tribes cannot have any form of gaming.

The intent of the Federal Indian Gaming Act was that in States where gaming is limited or prohibited, tribes would be similarly limited or prohibited. It was an agreement made with the States. They were not locked out. They were completely included in the process and certainly in the dialog when we wrote this bill in the first place.

There are many tribes and States that sat down and worked out their agreements that are binding and effective.

We often hear about an isolated case where something is not working very well. But often we don't study all of the overwhelmingly positive effects.

There are some Governors whom we know who have refused to negotiate at all with the tribes in their States, leaving those tribes without the ability to legally conduct gaming activities. That wasn't assumed. We passed the IGRA Act in 1988. We didn't think there would be some Governors who simply wouldn't negotiate and would stonewall and not come to the table. But there have been some.

We should remember how we got here.

In the wake of the 1987 Cabazon decision by the Supreme Court which held that State gaming laws did not apply to Indian gaming conducted on Indian lands, States clamored for a role in the writing of IGRA and regulating of the gaming on Indian lands. They got it.

Congress responded in 1988 by enacting the Indian Gaming Regulatory Act which provided an unprecedented opportunity for States to participate in the conduct and regulation of Indian gaming conducted entirely on Indian lands.

Reverse that a little bit. Do you think Indian tribes are in the loop or are able to participate in the conduct of regulation of State activities that are off Indian lands? They don't have the voice that States do within tribal governments.

That act was a compromise and for the first time gave the State governments a role in what gaming would occur on Indian lands. While Congress intended State participation, we intended to participate but we never intended that the States' refusal to negotiate would serve as an effective veto by any State over a tribe's right to conduct such gaming.

Today's debate is about whether a Governor or State can limit the type of activity of certain groups simply by refusing to negotiate. That is unfair. I think it is un-American.

As my colleagues know, I happen to be from the West. Most westerners are strong States rights people. We continually harangue the Federal Government for eroding States rights. We are always down here over business development or use of public lands. If it is good enough for a tribe to have to negotiate, then it should also be good enough for the State to have to negotiate, as was implied in IGRA.

While I believe that each State's public policy should determine the scope of gaming in that State, I also believe the current state of the law gives States what is in reality a veto over tribes. That is unacceptable.

I should point out to my colleagues that in many cases non-Indian gaming is promoted and even operated by State governments, such as State lotteries. It is an element of competition that should not be lost on this body. No one wants to share the revenue if they think they can make it all. I understand that. That is American business. But I believe some States have refused to bargain simply in order to preserve that monopoly on gaming.

To begin to break the stalemate, the Interior Department proposed a process based on the IGRA statute. Senator INOUYE alluded to that. Though the process may need refinement, I don't believe the Secretary should be stopped from developing alternative approaches to this impasse.

I believe it is in the interests of all parties that the Federal courts be allowed to render final, binding decisions to clarify the authority of the Secretary. That has not been finished. That is ongoing now. Adoption of this amendment would certainly short circuit that process.

By the way, there has been a similar amendment already rejected by the House of Representatives. I think it will unduly interfere with the litigation that is now at hand and deny the parties the clarification they need.

Last year, Secretary Babbitt made a commitment to Chairman GORTON, to the Senate as a whole, to refrain from implementing any further regulations until the Federal courts, including the

appellate level, rule on the merits of the legal issues involved. That litigation is now endangered by this amendment, which prohibits the Secretary from taking any action to implement those regulations, including the actions that will allow the matter to ''ripen'' and allow it to be pursued to a conclusion.

Coming from a Western State, I am as supportive as anyone in this body of States rights, but those who say this process ''overrides the Governors'' are wrong.

Under the proposal, if a State objects to a decision made by the Interior Secretary, that State can challenge the decision in Federal court.

For those who fear the Department is acting without oversight I point out that Congress has the authority to review any proposed regulations before they take effect.

As the proposal comes before the authorizing committees, any new regulations will get a careful review and if they are found wanting, they will not pass.

I urge my colleagues to vote against this amendment and allow the process to work.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Washington.

AMENDMENT NO. 3790

Mr. GORTON. Mr. President, I believe Senator SESSIONS is willing to withdraw the rollcall on this amendment. It will be accepted by voice vote.

Also, I have a unanimous consent request with respect to the votes that have already been ordered.

Mr. SESSIONS. Mr. President, that is correct. First, we are asking today in this amendment basically what the Secretary has agreed to. He has agreed, to the House but not to us, that he would hold off until after the appeal, and this 1-year delay would cover the circumstance in which we are likely to have a new Secretary come January—whether President Bush or GORE is elected. This may not be binding on the new one. It will guarantee the status quo until we get a court ruling.

In light of that and the discussions I have had, I vitiate my request for the yeas and nays and ask for a voice vote.

Mr. CAMPBELL. I have no objection to the voice vote. I will be on the losing side, but when we get to conference, I will have a lot more to say about it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3790) was agreed to.

Mr. GORTON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent, notwithstanding the DOD concept, that the votes occur in the following order, with no second-degree amendments in order prior to the votes, with 2 minutes prior to each vote for explanation in relation to the Durbin amendment on the subject of grazing and the Inhofe amendment on the subject of the National Endowment.

CHANGE OF VOTE—NO. 169

Mr. REID. Reserving the right to object, on rollcall vote 169, I was recorded as voting yea and I voted nay. Therefore, I ask unanimous consent the official record be corrected. This will in no way affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REED. Reserving the right to object, on rollcall vote No. 169, I was recorded as voting nay and I voted yea. Therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote. This will in no way affect the outcome of the vote.

Mr. LEVIN. Reserving the right to object, do I understand that the unanimous consent request would bring the Senate back to the previous order, immediately after those two votes?

Mr. GORTON. The Senator is correct. Basically, we will have two rollcall votes now and then go to DOD. I understand the leaders were attempting to arrange to finish Interior on Monday.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Washington?

Without objection, it is so ordered.

The PRESIDING OFFICER. Is there objection to the request of the Senators from Nevada and Rhode Island?

Without objection, their requests are so ordered.

VOTE ON AMENDMENT NO. 3810

Mr. GORTON. Mr. President, I don't believe the Senator from Illinois is available.

Mr. REID. Why don't we waive our 2 minutes? We heard from the Senators previously.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment No. 3810. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 38, nays 62, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—38

Akaka	Hollings	Moynihan
Bayh	Jeffords	Murray
Biden	Johnson	Reed
Boxer	Kennedy	Reid
Bryan	Kerry	Robb
Chafee, L.	Kohl	Rockefeller
Cleland	Landrieu	Sarbanes
Collins	Lautenberg	Schumer
Durbin	Leahy	Snowe
Edwards	Levin	Torricelli
Feingold	Lieberman	Wellstone
Graham	Lincoln	Wyden
Harkin	Mikulski	

NAYS—62

Abraham	Bond	Campbell
Allard	Breaux	Cochran
Ashcroft	Brownback	Conrad
Baucus	Bunning	Coverdell
Bennett	Burns	Craig
Bingaman	Byrd	Crapo
Daschle	Hatch	Roberts
DeWine	Helms	Roth
Dodd	Hutchinson	Santorum
Domenici	Hutchison	Sessions
Dorgan	Inhofe	Shelby
Enzi	Inouye	Smith (NH)
Feinstein	Kerrey	Smith (OR)
Fitzgerald	Kyl	Specter
Frist	Lott	Stevens
Gorton	Lugar	Thomas
Gramm	Mack	Thompson
Grams	McCain	Thurmond
Grassley	McConnell	Voinovich
Gregg	Murkowski	Warner
Hagel	Nickles	

The amendment (No. 3810) was rejected.

Mr. GORTON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, there are 2 minutes equally divided prior to a vote on the Inhofe amendment.

The Senator from Nevada.

Mr. REID. Mr. President, the two managers of the Defense authorization bill, after we complete this vote, in an effort for people to understand what is going on, would like to be able to tell Members who have amendments to offer to that legislation what the sequence would be. Under the order that is now in effect, Senator BYRD will be first.

I think it would be appropriate if Senator WARNER and Senator LEVIN could give us some indication how the next amendments would flow so we know what happens after this vote.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished leader.

We are here to try to convenience the Senate tonight. After this next vote, under the order, we go to the defense authorization bill. There are only four amendments scheduled in addition to Mr. BYRD's amendment. That would make five.

Senator LEVIN and I will accommodate the Members who are going to be debating tonight. If we can get into some short meeting with them, in between these votes right now, perhaps at the end we can announce a UC request sequencing the four amendments. That is my intention.

Mr. LEVIN. If the Senator would yield, there is just one more vote now scheduled?

Mr. WARNER. That is correct.

Mr. LEVIN. Then we would go to Senator BYRD, who is in the UC, dispose of that amendment. Then the other four that are listed are not sequenced yet.

Mr. WARNER. That is correct.

Mr. LEVIN. We would attempt to sequence them. If we fail, as far as I am concerned, then it's whoever gets recognized first. But we are going to make a real effort to sequence those amendments and then vote on them in the morning.

Mr. WARNER. Yes. Mr. President, we will try to reduce the times so that we are not here for a lengthy period.

Mr. REID. The Senators involved are Senators FEINGOLD, DURBIN, HARKIN, and KERRY of Massachusetts.

Mr. LEVIN. But there are others involved in those amendments.

AMENDMENT NO. 3812

The PRESIDING OFFICER. Under the previous order, there are 2 minutes equally divided prior to a vote on the Inhofe amendment.

Who yields time?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, this is a very simple, straightforward, easy-to-understand amendment. It merely takes $7.3 million and puts it into the Indian Health Services for diabetes. It does take that out of the National Endowment for the Arts, but all it does is take it out of the increase. Last year they had $97 million. They are increasing it this year to $105 million. All I am asking is to take that $7 million, instead of increasing the National Endowment for the Arts, and to put it into the Indian Health Services' diabetes program.

I am prejudiced because I come from the State that has in terms of percentages, the largest Indian population. However, I can tell you this, that of the national Indian population, 12.2 percent of them have diabetes because of the environment in which they live. It is an unhealthy environment. There are cases where they have all kinds of infections that set in where they are unable to keep from having amputations. So it is a very serious thing.

You will hear from the other side an argument that says we are hurting the National Endowment for the Arts. I want Senators to remember, when you cast your vote, this does not take any money away from the allocation they had last year; it merely freezes that allocation in for the coming year. Even with the increase of $30 million that is currently in this program, that still is less than 10 percent of the amount of money that is spent for research on cancer and AIDS.

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

Who yields time?

The Senator from Washington.

Mr. GORTON. Mr. President, this bill includes a $143 million increase for the Indian Health Service, an amount much larger than the entire appropriations for the National Endowment for the Arts. Due to the work of Senator DOMENICI, there is a $30 million-a-year entitlement for the very subject of diabetes control for Indians that is already a part of the funding of Indian programs in the United States.

The National Endowment for the Arts, which has abided by all of the restrictions put on it over the last several years by this body, has not had an increase since 1992. This is a fair and modest increase for the National Endowment for the Arts. It ought to be rewarded for following the commands of Congress, itself. The money is not needed for the purposes of the amendment because that function is already very generously supported both in this bill and through an entitlement.

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

The question is on agreeing to amendment No. 3812. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 73, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—27

Abraham	Gramm	McConnell
Allard	Grams	Murkowski
Ashcroft	Hagel	Nickles
Brownback	Helms	Roberts
Bunning	Hutchinson	Sessions
Burns	Inhofe	Shelby
Coverdell	Kyl	Smith (NH)
Enzi	Mack	Thomas
Fitzgerald	McCain	Thurmond

NAYS—73

Akaka	Edwards	Lott
Baucus	Feingold	Lugar
Bayh	Feinstein	Mikulski
Bennett	Frist	Moynihan
Biden	Gorton	Murray
Bingaman	Graham	Reed
Bond	Grassley	Reid
Boxer	Gregg	Robb
Breaux	Harkin	Rockefeller
Bryan	Hatch	Roth
Byrd	Hollings	Santorum
Campbell	Hutchison	Sarbanes
Chafee, L.	Inouye	Schumer
Cleland	Jeffords	Smith (OR)
Cochran	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kerrey	Stevens
Craig	Kerry	Thompson
Crapo	Kohl	Torricelli
Daschle	Landrieu	Voinovich
DeWine	Lautenberg	Warner
Dodd	Leahy	Wellstone
Domenici	Levin	Wyden
Dorgan	Lieberman	
Durbin	Lincoln	

The amendment (No. 3812) was rejected.

Mr. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT

Mr. GORTON. Mr. President, I ask unanimous consent that the only remaining first-degree amendments in order to the Interior bill other than the managers' package of amendments be the following and subject to relevant second-degree amendments:

Boxer on pesticides;

Bryan on timber sales;

Nickles on monuments language;

Torricelli on UPAR;

Torricelli on highlands;

Reed of Rhode Island on weatherization;

Bingaman on forest health;

Bingaman on Ramah Navajo;

Feingold on Park Service;

And Domenici on Rio Grande water.

I further ask unanimous consent that on Monday, July 17, the Senate resume the Interior bill at a time to be determined by the majority leader, after consultation with the minority leader, and the amendments listed above be offered and debated during Monday's session, other than the Feingold amendment which will be debated on Tuesday with 15 minutes under the control of Senator FEINGOLD and 15 minutes under the control of Senator BINGAMAN regarding the Navajo amendment; further, with consent granted, to lay aside each amendment where deemed necessary by the two leaders.

I also ask unanimous consent that all amendments and debate be concluded during Monday's session and the votes occur at 9:45 a.m. on Tuesday, with 2 minutes prior to each vote for explanation, with the bill being advanced to third reading and passage to occur after disposition of these amendments, all without any intervening action or debate. Further, I ask unanimous consent that additional relevant second degrees be in order if necessary to the first degree after disposition of any offered second-degree amendment on Tuesday.

Finally, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, which will be the entire Interior Subcommittee.

Mr. REID. Reserving the right to object, Senator BOXER has instructed me to make sure she has an up-or-down vote on her amendment. It is one that is in order. She wants to make sure that if there is a second degree she has a right to reoffer her amendment. She is willing to take a voice vote. She wants to make sure there is a vote on her amendment, and I ask the Chair if that would be permissible under this consent agreement.

The PRESIDING OFFICER. That is correct.

Without objection, it is so ordered.

Mr. GORTON. Mr. President, in light of this agreement, there will be no further votes this evening. The next vote will occur in a stacked sequence beginning at 9:30 a.m. tomorrow. The Senate will begin the death tax repeal at 8:30 a.m. tomorrow, Thursday morning.

Mr. SMITH of Oregon. Mr. President, I want to comment briefly on the Senate's adoption of the Domenici substitute amendment to the Craig amendment regarding the President's Roadless Initiative. I was unable to be on the floor earlier today when the Craig amendment and Domenici substitute amendment were considered.

First, let me say that I was a cosponsor of the underlying Craig amendment and I continue to share his concern about blatant Federal Advisory Committee Act violations by this administration in the development of their Roadless Initiative. In any case, I don't believe ''one-size-fits-all'' proposals like the President's Roadless Initiative, hatched in the halls of bureaucracy in Washington, D.C., can be any substitute for sound land management policies developed in collaboration with people at the local level. Oregonians, if given a chance, have proven

time and again that they can be better stewards of the land than federal bureaucrats.

I understand that Senator CRAIG agreed to the Domenici substitute in part because this matter of FACA violations will be considered by the courts this August. I trust that the Congress will have an opportunity to review this matter this session if the courts fail to do so, and I praise Senator CRAIG for his continued leadership on this important issue.

With that said, I wanted to add my voice to those who spoke earlier in favor of the Domenici substitute amendment that seeks to address the growing threat of catastrophic wildfire in areas of urban-wildland interface. A century of fire suppression followed by years of inactive forest management under this administration have left our National Forest system overstocked with underbrush and unnaturally dense tree stands that are now at risk of catastrophic wildfire. The GAO recently found that at least 39 million acres of the National Forest system are at high risk for catastrophic fire. According to the Forest Service, twenty-six million acres are at risk from insects and disease infestations as well. The built up fuel loads in these forests create abnormally hot wildfires that are extremely difficult to control. To prevent catastrophic fire and widespread insect infestation and disease outbreaks, these forests need to be treated. The underbrush needs to be removed. The forests must be thinned to allow the remaining trees to grow more rapidly and more naturally. This year's fires in New Mexico have given us a preview of what is to come throughout our National Forest system if we continue this administration's policy of passive forest management.

I believe the Domenici amendment will help this reluctant administration to face up to this growing threat to homes, wildlife, and watersheds. I commend Senator DOMENICI and the bipartisan group of Senators who worked very hard to craft this compromise.

Mr. DOMENICI. Mr. President, I am pleased to rise today in strong support of H.R. 4578, the Interior and related agencies appropriations bill for FY 2001.

As a member of the Interior Appropriations Subcommittee and the full Appropriations Committee, I appreciate the difficult task before the distinguished subcommittee chairman and ranking member to balance the diverse priorities funded in this bill—from our public lands, to major Indian programs and agencies, energy conservation and research, and the Smithsonian and federal arts agencies. They have done a masterful job meeting important program needs within existing spending caps.

The pending bill provides $15.6 billion in new budget authority and $10.1 billion in new outlays to fund Department of Interior and related agencies. When outlays from prior-year budget authority and other completed actions are taken into account the Senate bill totals $15.5 billion in BA and $15.6 billion in outlays for FY 2001. The Senate bill is at its Section 302(b) allocation for BA and $2 million under the Subcommittee's revised 302(b) allocation in outlays.

I would particularly like to thank Senator GORTON and Senator BYRD for their commitment to Indian programs in this year's Interior and Related Agencies appropriation bill. They have included increases of $144 million for Bureau of Indian Affairs construction, $110 million for the Indian Health service and $65 million for the operation of Indian programs.

I commend the subcommittee chairman and ranking member for bringing this important measure to the floor within the 302(b) allocation. I urge the adoption of the bill, and ask for unanimous consent that the Budget Committee scoring of the bill be printed in the RECORD at this point.

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

H.R. 4578, INTERIOR APPROPRIATIONS, 2001, SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2001, in millions of dollars]

	General Purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	15,474	59	15,533
Outlays	15,509	70	15,579
Senate 302(b) allocation:			
Budget authority	15,474	59	15,533
Outlays	15,511	70	15,581
2000 level:			
Budget authority	14,769	59	14,828
Outlays	14,833	83	14,916
President's request:			
Budget authority	16,286	59	16,345
Outlays	15,982	70	16,052
House-passed bill:			
Budget authority	14,723	59	14,782
Outlays	15,224	70	15,294
SENATE-REPORTED BILL COMPARED TO			
Senate 302(b) allocation:			
Budget authority	.....	.....	.....
Outlays	−2	.....	−2
2000 level:			
Budget authority	705	.....	705
Outlays	676	−13	663
President's request:			
Budget authority	−812	.....	−812
Outlays	−473	.....	−473
House-passed bill:			
Budget authority	751	.....	751
Outlays	285	.....	285

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001—Continued

The PRESIDING OFFICER. The clerk will report the Defense authorization bill.

The legislative clerk read as follows:

A bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Mr. WARNER. Mr. President, I have in mind, and I think other Members do at this juncture, operating under the unanimous consent agreement reached last night. I amend that unanimous consent to the extent that the senior Senator from West Virginia very graciously is willing to withhold the presentation of his amendment until such time that the distinguished Senator from Massachusetts and the Senator from Alaska bring up their amendments, which is sequenced, and they indicate to this manager that it will not take more than 10 or 12 minutes. Therefore, I ask that.

I further request, following the disposition of the Byrd amendment, Mr. FEINGOLD be recognized; following the completion of his amendment, the Senator from Illinois, Mr. DURBIN, be recognized.

Mr. LEVIN. I understand the Senator from Wisconsin is willing to have 30 minutes equally divided instead of 40 minutes on his amendment. I ask that the unanimous consent agreement be so modified.

Mr. WARNER. I have no objection.

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

The Senator from Alaska.

AMENDMENT NO. 3815

(Purpose: To provide that the limitation on payment of fines and penalties for environmental compliance violations applies only to fines and penalties imposed by Federal agencies)

Mr. STEVENS. Mr. President, the Senator from Massachusetts had an amendment pending concerning section 342 of this bill. We have discussed this. That was an amendment that would change the existing text that came from an amendment I suggested. I will offer an amendment to strike the existing section 342 and insert language we agreed upon. I do believe the Senator from Massachusetts wants to be heard on this. I want a word after his comments.

Mr. KERRY. I suggest the Senator from Alaska go first, since he wants to frame the change, and I will be happy to respond.

Mr. STEVENS. The Senator is very gracious. I have become increasingly concerned about the fines that EPA has been assessing against military reservations or elements of the Department of Defense, and had requested this provision in the bill to curtail that activity. In fact, it would have originally applied to similar fines from State and local agencies also.

We have now agreed on a version of this section 342 that will limit the fines that can be assessed against military entities by the EPA to $1.5 million unless the amount in excess of that is approved by Congress. It will be a provision, if accepted, which will be in effect for 3 years. My feeling is that there are many things that go into the operation of the Department of Defense that are subject to review by EPA, and it is my opinion that they have been excessive in terms of applying fines against the military departments. I do believe it results in an alteration of the lands we have for particular installations and it reduces the amount of money available

to operate those installations when they face these fines.

This amendment does not prohibit the fines. It only says they cannot assess any and have them paid to the EPA in excess of $1.5 million unless that fine is approved by an act of Congress.

I thank the Senator for working this out.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank my good friend from Alaska for his efforts to try to reach an accommodation. I listened carefully to the arguments of the Senator from Alaska who made it clear that he had a very strong belief that certain facilities in the State of Alaska had been treated in a way that he believed very deeply was inappropriate and resulted in fines that were excessive and, in his judgment, wrought with some bureaucratic issues that he had no recourse to resolve.

The initial section in the bill reported by the committee would regrettably have prohibited the EPA entirely from being able to enforce. A number of Members felt very strongly that was an overreaction in how we cure the problem that the Senator from Alaska was bringing to our attention without destroying the ability of the EPA to be able to enforce across the country.

So we reached an agreement where 98 percent of all those enforcement actions in the country which are under $1.5 million, the EPA will continue to be able to enforce as it currently does. It is appropriate for this 3-year period only to review what the impact may be of some larger level over that period of time.

To have proceeded down the road we were going to proceed, in my and other people's judgment, would have created a terrible double standard. Under current law, a DOD facility that violates the Resource Conservation and Recovery Act or the Safe Drinking Water Act or the Toxic Substances Control Act or the Clean Air Act is subject to the same kinds of penalties as a private facility. By waiving sovereign immunity and subjecting Federal facilities to fines, we created the financial hammer to be able to force a sometimes reluctant Government and a Government bureaucracy to comply.

Congress recognized this principle in 1992 when we passed the law. The bill was sponsored by majority leader Mitchell. He said at the time that a waiver of sovereign immunity would move us from the disorder of Federal noncompliance to a forum in which all entities were subject to the same law and to full enforcement action. I am pleased to say it passed the Senate by a vote of 94–3, and it passed the House by a vote of 403–3. It was signed into law by President Bush, who at the time said it would bring all Federal facilities into compliance with applicable Federal and State hazardous waste laws.

I think that very much is our purpose today—to protect our capacity to be able to secure that kind of enforcement. I thank the Senator from Alaska for his very reasonable approach to this. I think we have been able to resolve the most egregious situations about which he has expressed appropriate concern, but at the same time we have been able to preserve the principle of Federal compliance and the principle of all people being treated equally.

I thank the Chair and I thank the distinguished Senator from West Virginia for his courtesy in allowing us to deal with this issue.

Mr. STEVENS. Mr. President, I thank the Senator from West Virginia for his courtesy and the Senator from Massachusetts. I ask unanimous consent that the amendment I have at the desk be accepted in lieu of the amendment offered by the Senator from Massachusetts, Senator KERRY.

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

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3815.

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

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

The amendment is as follows:

Section 342 is amended by striking the provisions therein and inserting:

SEC. 342. PAYMENT OF FINES AND PENALTIES FOR ENVIRONMENTAL COMPLIANCE VIOLATIONS.

(a) PAYMENT OF FINES AND PENALTIES.—(1) Chapter 160 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2710. Environmental compliance: payment of fines and penalties for violations

"(a) IN GENERAL.—The Secretary of Defense or the Secretary of a military department may not pay a fine or penalty for an environmental compliance violation that is imposed by a Federal agency against the Department of Defense or such military department, as the case may be, unless the payment of the fine or penalty is specifically authorized by law, if the amount of the fine or penalty (including any supplemental environmental projects carried out as part of such penalty) is $1,500,000 or more.

"(b) DEFINITIONS.—In this section:

"(1)(A) Except as provided in subparagraph (B), the term 'environmental compliance', in the case of on-going operations, functions, or activities at a Department of Defense facility, means the activities necessary to ensure that such operations, functions, or activities meet requirements under applicable environmental law.

"(B) The term does not include operations, functions, or activities relating to environmental restoration under this chapter that are conducted using funds in an environmental restoration account under section 2703(a) of this title.

"(2) The term 'violation', in the case of environmental compliance, means an act or omission resulting in the failure to ensure the compliance.

"(c) EXPIRATION OF PROHIBITION.—This section does not apply to any part of a violation described in subsection (a) that occurs on or after the date that is three years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2710. Environmental compliance: payment of fines and penalties for violations.".

(b) APPLICABILITY.—(1) Section 2710 of title 10, United States Code (as added by subsection (a)), shall take effect on the date of the enactment of this Act.

(2) Subsection (a)(1) of that section, as so added, shall not apply with respect to any supplemental environmental projects referred to in that subsection that were agreed to before the date of the enactment of this Act.

Mr. STEVENS. Mr. President, regarding the Fort Wainwright central heat and powerplant, on March 5, 1999, the EPA Region 10 issued a notice of violation against the U.S. Army Alaska claiming they had violated the Clean Air Act with their central heat and powerplant.

After several meetings between regulators and Army officials, the EPA sent them a settlement offer proposing that the Army pay a $16 million penalty to resolve the alleged clean air violations.

In the offer, the EPA advised the Army that it would file a formal complaint if the Army failed to make a good-faith counteroffer within one month. The EPA also indicated that the size of fine sought will likely increase if a complaint was filed.

This $16 million penalty is the largest single fine ever sought from the Department of the Army or against any installation within the Department of Defense. It also exceeds the combined total of all other fines previously sought from the Army.

While U.S. Army Alaska had been aware for some time that the 50-year old central heat and powerplant required numerous upgrades, significant progress had been made toward bringing the plant into compliance.

The Army also had been working closely with the Alaska Department of Environmental Conservation—which had been delegated Clean Air Act enforcement authority from the EPA—regarding the timetable for compliance.

That same year, in fiscal year 1999, the Army sought and received authorization and appropriations from the Congress to build a $16 million baghouse to control emissions from the plant.

In addition, an additional $22 million had been budgeted for fiscal year 2000 for plant upgrades.

The Army and the Department of Defense were surprised by the basis for the proposed penalty.

In EPA's settlement letter, EPA stated that it was seeking to recover the "economic benefit" the Army received by not constructing the baghouse sooner.

Over $15.8 million of the proposed fine, roughly 98 percent, is directly tied to the "saved" cost that U.S. Army Alaska purportedly enjoyed.

This is also the first time the EPA proposed a fine whose economic benefit components dwarf the assessed penalty based on the seriousness of the alleged violations.

Regarding the EPA visit to Shemya Air Force Base, the Air Force had a 50-year problem of waste and drum accumulation at Shemya Island—complicated by the large quantity generator status at Shemya AFB. This status required processing of accumulated hazardous wastes from the island within 90 days of generation. To meet the 90-day requirement, airlift had to be used as the primary method of disposal of the accumulated hazardous wastes. Also, the airlift crews had to have special qualifications to handle and process hazardous wastes.

From 1989 through 1991, 13,781 gallons of hazardous waste were shipped off Shemya Island. Following the 1991 Gulf War, airlift outside of the Middle East was impossible to get.

Complicating matters, Elmendorf AFB in Alaska could not handle the amounts of hazardous waste being returned from remote Alaskan defense sites. Movement of hazardous waste from remote sites came to a standstill due to strained airlift requirements and limited hazardous waste storage and processing capabilities.

In January of 1993, the Air Force started airlifting and removing 100 waste drums every week vice 100 per month.

Two months later, in March, the EPA gave the Air Force a 10-day notice of inspection. During the inspection, the Air Force had 660 barrels on the Shemya airfield processed awaiting air transportation.

During the out-briefing with senior Air Force personnel, the inspectors commented that the Air Force was making good progress in reducing the backlog of waste drums.

A long period of time ensued between the inspection and the publicly announced result and proposed fine by EPA.

EPA assessed the Air Force a fine of $483,000—this was the largest environmental noncompliance fine levied against the Air Force at that point in time.

Mr. KERRY. Mr. President, tonight, Senator STEVENS offered an amendment to the National Defense Authorization Act for Fiscal Year 2001 to amend Section 342. The amendment reflects a compromise reached between Senator STEVENS, BAUCUS, LAUTENBERG and myself. I want to thank Senator STEVENS for working with us to address grave concerns we had with Section 342 of the bill.

Mr. President, I would like to make a few comments about Section 342 and discuss why I had such great concerns over the impact it would have had on environmental compliance. Section 342, as it was passed out of the Armed Services Committee, would have weakened a fundamental environmental principle that protects the environment and public health in communities across the nation. It is the principle that national environmental laws should apply to the federal government in the same manner as they apply to state and local governments and to private facilities, including companies, universities, hospitals, and nonprofit entities.

Section 342 would have created a double standard by subjecting corporations, state and local facilities to one legal standard and Department of Defense facilities to a second, weaker standard. More importantly, it had the great potential to undermine compliance with national environmental and public health protections at military facilities across the nation—putting the environment and citizens at risk.

Specifically, the provision amended existing law to require Congressional authorization before the DOD pays environmental and public health penalties assessed by state and federal authorities in excess of $1.5 million or based on ''economic benefit'' or ''size-of-business'' criteria. As a result, it provided DOD a congressional reprieve not provided to any other entity.

It created a double standard. Under current law, a DOD facility that violates the Resource Conservation and Recovery Act, the Safe Drinking Water Act, Toxic Substances Control Act, or the Clean Air Act is subject to the same kind of penalties as a private facility. By waiving sovereign immunity—and subjecting federal facilities to fines—we create the financial hammer that forces sometimes reluctant government bureaucracies to comply. And we apply the law equally to all.

Congress recognized this principle in 1992 with the enactment of the Federal Facilities Compliance Act, which waived sovereign immunity under the Resource Conservation and Recovery Act. The bill was sponsored by Majority Leader George Mitchell, who said in floor debate that, ''A waiver of sovereign immunity moves us from the disorder of Federal noncompliance to a forum in which all entities are subject to the same law and to full enforcement action.'' He added that: ''The principle [of waving sovereign immunity] is important because, without it, there is only voluntary compliance. History demonstrates that voluntary compliance does not work.''

The Federal Facilities Compliance Act had 33 cosponsors in the Senate—myself included. It was a bipartisan effort that passed the Senate with a vote of 94–3 and the House by a vote of 403–3. It was signed into law by President George Bush, who said that, ''The objective of the bill is to bring all Federal facilities into compliance with applicable Federal and State hazardous waste laws, to waive Federal Sovereign immunity under those laws, and to allow the imposition of fines and penalties.'' He added, ''Four years ago I promised the American people that I would make the federal government live up to the same environmental standards that apply to private citizens. By signing this bill, we take another step toward fulfillment of that promise.''

It was an important step for the states coping with federal agencies that were immune to enforcement and that refused to comply. The California Secretary of Environmental Protection, James M. Strock, said that in passing the Act, Congress took ''an important step in restoring the link between environmental responsibility and remediation of environmental damage at federal facilities.'' He continued, ''The Act provides an essential tool to states and localities which seek compliance with hazardous waste laws.''

The National Association of Attorneys General applauded the passage of the Act. Their statement read that, ''The [legislation] has been among the Association's highest priorities on Capitol Hill for the past five years. . . . [The] Attorneys General have repeatedly called upon Congress to clarify the waiver of federal sovereign immunity, which has thus far prevented the states from ensuring compliance at contaminated facilities through assessment of fines and penalties.''

I feel that Section 342 would have rolled back the progress we've made with the Federal Facilities Compliance Act and other laws. It would have been a mistake. We should allow our law enforcement agencies to do their job. Section 342 of the DOD bill was opposed by the National Governors' Association, the National Association of Attorneys General, and the National Conference of State Legislatures. In a joint letter they write that, ''States report that the federal government is the nation's largest polluter and military installations are a major contributor to that pollution. Section 342 is a step backward from the progress we have made in changing the attitude of military installations toward compliance with the nation's environmental laws. We urge you to support efforts to strike the provisions.'' This letter is signed by Governor Kenny Guinn of Nevada, Attorney General Christine Gregoire of Washington, and Senator Beverly Gard of Indiana.

Section 342 was also opposed by the Environmental Council of the States. It writes that, ''The state environmental commissioners, along with governors, state legislators, attorneys general and other officials of state government have insisted that the federal government live by exactly the same standards and requirements that it imposes on all other parties, and we all oppose this provision in S. 2549. Exempting military installations from one of the basic tools of environmental enforcement is bad policy, and would seriously erode our capacity to ensure our citizens the protection of federal and state laws.'' The letter is signed by R. Lewis Shaw, Deputy Commissioner, South Carolina Department of Health and Environmental Control and President of the Council.

Mr. President, even Governor George W. Bush of Texas recognizes the important principle of treating federal facilities as we treat state and local governments and private facilities. On Governor Bush's website—georgebush.com—the Governor has posted his environmental platform. The sixth plank in that platform reads as follows: ''Direct active federal facilities to comply with the environmental protection laws and hold them accountable.'' It continues, ''Governor Bush will expect the federal government to lead by example. He believes it is time to end the double standard that has federal government acting as enforcer of the nation's environmental laws, while at the same time causing pollution that violates those laws.''

Mr. President, last year, a provision similar to Section 342 was incorporated into the FY 2000 DOD appropriations bill. The Congressional Budget Office evaluated that provision and concluded that, ''Based on information from DOD and on conversations with representatives of state governments, CBO believes that requiring DOD to seek specific authorization from the Congress before paying each fine . . . will likely delay the payment of some fines. To the extent the Congress fails to authorize fines in the future, it is possible that the section would make it more difficult for states and local governments to negotiate for compliance with environmental laws.'' The letter is signed by Dan. L. Crippen, Director of the CBO.

Plain and simple, if we had passed Section 342 we would have rolled back environmental and public health protections for thousands of Americans who live near DOD facilities and for generations who will face the costs of cleanup. Our state attorneys—the people in the field enforcing our laws—our governors and our state environmental commissioners—and even the likely Republican nominee for President are telling us it is a mistake to do so.

Mr. President, the principle is not just rhetoric—it is supported by the record. In 1993, compliance by federal facilities with the Resources Conservation and Restoration Act was 55.4 percent. Almost half of all federal facilities operated out of compliance. Why? Because the law was unclear as to whether or not environmental fines could be assessed against federal facilities. But with the passage of the Federal Facilities Compliance Act in 1992—when DOD and other federal facilities faced fines and penalties for the first time—compliance started to climb. By 1998, compliance at federal facilities had reached 88.2 percent. And the opposite has also proven true. Federal compliance under the Clean Water Act, which does not have a clear waiver, has dropped at federal facilities. In 1993, more than 94 percent of federal facilities were in compliance, and by 1998 that number had dropped to just 61.5 percent. According to enforcement officials at EPA and state government, that decline coincided with court decisions that interpreted the Clean Water Act as having only a limited waiver of sovereign immunity. To reverse that trend, I understand that Senator COVERDELL has introduced legislation to waive sovereign immunity for federal facilities. That Republican-led initiative now has now been cosponsored by Senators BREAUX, CHAFEE, DEWINE, GRAMS, and VOINOVICH.

Some argued that last year's provision wouldn't impact enforcement because, like Section 342, Congress can authorize the fine. But the numbers don't bear out that prediction. Why? Because investigators and attorneys knew full well that DOD was about to get a ''Get Out Of Jail Free Card'' from Congress. Even the best legal work can be overturned if Congress simply decides not to act on an authorization. As a result, enforcement actions have dropped off. As with any law, without strong enforcement, compliance will fall.

The principle is simple, Mr. President. If you want people, companies, institutions, and the government to comply with the law you must be tough on crime—including environmental crime. The way to ensure that all facilities comply with the law is to make sure that pollution does not pay. If the threat of a large fine is on the horizon—if the laws have teeth—everyone will be far more inclined to comply.

Mr. President, I want to focus some on the issue of ''economic benefit'' and ''size-of-business'' criteria and what it means to limit the federal and state authority to impose a fine based on those criteria. There seems to be some confusion as to why a federal or state authority would seek a penalty based on economic benefits at a DOD facility. The Report language accompanying Section 342 notes that the DOD, in the Committee's view, has no economic competitors in regard to the Clean Air Act. Therefore, the principle of economic benefit or size-of-business should not apply. Mr. President, I believe that is an incorrect reading of the Clean Air Act and other relevant statutes.

Foremost, an economic benefit provision prevents a facility, whether it's private or federal, from benefitting financially from noncompliance. Federal and state authorities need the power to make noncompliance economically unviable. We cannot have a system that rewards people for breaking the law. The Report language accompanying Section 342 argues that economic benefit is tied to ''competition'' among businesses and intended to prevent economic advantage through noncompliance. That is a narrow, misreading of the Clean Air Act. For example, all across the country, electric utilities—including municipal facilities—operate without ''competitors'' as the report defines the term. Utilities are guaranteed a market in return for providing a set amount of power. This is changing with competition, but many did and some still do operate as sanctioned monopolies. But they are not exempt from fines and penalties in the Clean Air Act. Further, EPA and the states assess ''economic benefit'' fines against hospitals, universities, and local and state governments. For example, in a Clean Water Act challenge, the United States versus City of San Diego in 1991, a federal court found that the ''plaintiffs' analysis of economic benefit is valid as to municipalities. While it is difficult to quantify precisely the savings realized by the City as a result of its intransigence, plaintiffs have demonstrated by a preponderance of the evidence that the city has saved in excess of $300 million over approximately the last thirty years by failing to invest in capital improvements.'' The case shows that economic benefits apply to nonbusiness entities—the City of San Diego and that economic benefit is based on ''savings'' from noncompliance.

Mr. President, ''economic benefit'' and ''size-of-business'' criteria are as applicable to DOD as they are to private companies, non-profits, states, and other federal agencies. We should not rollback protections and create a situation in which a manager within the DOD could rationalize noncompliance because it saves money—we must demand compliance from federal facilities.

Further, Mr. President, the use of these criteria to enforce the law has been endorsed by the states. The Attorneys Generals, the Governors and the Conference of Legislatures specifically addressed this issue in their letter opposing Section 342. They write that, ''The economic benefit analysis, in particular, is important to states because it prevents DOD from considering a fine merely as a cost of doing business . . .'' The Environmental Council of the States, which represents our state environmental commissioners, writes, ''Section 342 would have severely restricted the ability of states to ensure that facilities do not realize financial gain through noncompliance. Typically, states include in their penalties an amount that offsets these financial benefits. In this way, they significantly reduce economic incentives to avoid environmental and public health requirements.'' A cursory review of state policy conducted by the Governors, Attorneys General and the State Commissioners at my request, found that most states use economic benefits, including Texas, Montana, South Carolina, Minnesota, Colorado, Indiana, Pennsylvania, North Carolina, Alaska, Connecticut, and California.

The Armed Services Committee Report with S. 2549 states that ''[i]t is the committee's view that the application of the economic benefit or size of business penalty assessment criteria to the DOD is inconsistent with the statutory language and the legislative history under the [Clean Air Act.]'' Again, I

disagree and suggest that is narrow and incorrect reading of the Act. I believe a plain reading of the Clean Air Act makes it clear that all fines and sanctions apply to DOD. Section 118(a) of the Act reads as follows: ''Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government . . . shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same manner, and to the same extent as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any record keeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to any requirement to pay a fee or charge imposed by any State or local agency to defray the costs of its air pollution regulatory program, (C) to the exercise of any Federal, State, or local administrative authority, and (D) to any process and sanction, whether enforced in Federal, State, or local courts, or in any other manner.'' In addition, the managers report for the 1990 amendments regarding Section 118(a) reads that, ''the new language is intended to refute the argument [DOD is not subject to fee requirements] and to affirm the obligation of federal agencies to comply with all requirements, including such fees or charges.'' I add that Section 118(b) of the Clean Air Act is titled ''Exemptions'' and it specifically delineates under what circumstances the DOD can be exempted from enforcement action—and it makes no reference to the size of a fine or the criteria set forth in the penalty section. The Clean Air Act is very clear on this point.

Mr. President, Section 342 reached beyond the Clean Air Act. It also applies to the Resources Conservation and Restoration Act, Toxic Substances Control Act and the Safe Drinking Water Act. I believe that a plain reading of RCRA and the Federal Facilities Compliance Act makes clear that DOD should be treated the same as private facilities. There is no ambiguity in the law or the legislative history. In the floor debate Senator Mitchell said, ''A waiver of sovereign immunity moves us from the disorder of Federal noncompliance to a forum in which all entities are subject to the same law and to full enforcement action.'' At the bill signing Bush said, ''The objective of the bill is to bring all Federal facilities into compliance with applicable Federal and State hazardous waste laws, to waive Federal Sovereign immunity under those laws, and to allow the imposition of fines and penalties.'' Section 102 of RCRA reads, ''The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.'' In regard to EPA actions against DOD, the Act reads that, ''The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act. The Administrator shall initiate an administrative enforcement action against such a department, agency, or instrumentality in the same manner and under the same circumstances as an action would be initiated against another person.'' Mr. President, I believe the law is clear. The Report language with S. 2549 offers us an inaccurate reading of the Clean Air Act and fails to address other environmental law statutes it impacts.

Some have suggested that Section 342 would have almost no impact on enforcement because few cases exceed $1.5 million. As a result, we will rarely—if ever—need a congressional authorization to impose a fine. That's simply wrong. Section 342 reads that congressional authorization is needed if the fine exceeds $1.5 million or if it is based on ''economic benefit'' or ''size of business'' criteria. In theory, Mr. President, all fines originating with the Environmental Protection Agency would have been caught by Section 342, regardless of their size. It is EPA's policy and that of many states that all fines should incorporate the economic benefit gained from noncompliance. It is difficult to know how many fines will need to pass through the new process created by Section 342 and how many will not be authorized or authorized at a lower amount. But, we do know that it could be a fine of any size, no matter how small.

Moreover, the threat of a large fine will be gone if Section 342 passed. This alone will deter compliance. The Congressional Budget Office specifically noted in its letter from last year that, ''the States, local governments, and federal agencies often use the threat of theses fines as part of the negotiation with facilities to achieve compliance with environmental laws.'' The Attorneys General—the people in the field doing the work—write of Section 342 that, ''The threat of a significant fine or penalty is one of the more effective ways state officials have for encouraging violators, including military installations, to take responsibility for the environmental consequences of their operations.'' Any prosecutor, whether they are involved in a criminal action, or civil environmental compliance, will tell you that the threat of long jail term or a large fine is critical to enforcing the law. Finally and most importantly, Mr. President, by giving the largest violators, those fined over $1.5 million, a chance for congressional reprieve, Section 342 created a perverse system where only the most egregious violators get a special legal loophole unavailable to less egregious violators. It is a bad precedent.

Mr. President, the compromise we have reached does not resolve all of my concerns, but it addresses many of them. Under the agreement reached tonight, offered by Senator STEVENS and passed, all fines of $1.5 million or more, assessed against DOD by a federal agency for environmental noncompliance, over the next three years, must be approved by Congress. State enforcement actions are not impacted by this agreement and our state Attorneys General can continue to enforce the law as they now do. The concepts of economic benefits and size of business remain in place in our environmental enforcement at the state and federal level. Only fines equal to or in excess of $1.5 million will require a congressional authorization and that result in only a small percentage of fines needing authorization. And it expires in three years. I do have some concerns with the agreement. By requiring a congressional authorization on fines of $1.5 million or more, we provide the most egregious violators a congressional reprieve and, therefore, it will limit our ability to deter noncompliance because the threat of a large fine will be reduced. However, I want to note and recognize the concerns Senator STEVENS has raised. Enforcement power, whether it sits with the EPA or the states, can be abused. The agreement expires in three years. In that time, Congress will have a close look at EPA's actions in assessing large fines.

Again, I want to thank Senators STEVENS, BAUCUS and LAUTENBERG.

Mr. LAUTENBERG. Mr. President, I rise in strong support of Senator KERRY's effort to make sure the Federal government plays by the same environmental rules that the private sector lives by. The Defense Department, in carrying out its military mission operates a vast, sprawling industrial complex with a potentially huge impact on the environment.

I think I'm only stating the obvious when I say it's absolutely crucial to make sure that the Defense Department and all federal agencies are held to the same environmental standards that apply to the private sector.

Under most current environmental laws, that's already the case. Federal facilities, including military installations, are subject to civil penalties for violating the Resource Conservation and Recovery Act, certain provisions of the Toxic Substances Control Act, the Safe Drinking Water Act, and the Clean Air Act. Congress specifically recognized the importance of these penalties when it passed the Federal Facility Compliance Act of 1992.

During the past several months I've received letters on this issue from environmental and state organizations, as

well as the Statement of the Administration's strong opposition to this provision. I ask unanimous consent that copies of these letters be printed in the RECORD.

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

June 6, 2000.

DEAR SENATOR: On behalf of millions of our members nationwide, we urge you to support the Kerry amendment to strip an extremely damaging legislative provision included in the National Defense Authorization bill for fiscal year 2001 (sec. 342 of S. 2549). This provision would make a permanent change in the law that could delay and even block DOD from having to pay civil penalties for environmental violations occurring at DOD facilities. We strongly urge you to support this effort to remove it from the authorization bill this year.

Section 342 of the authorization bill would require specific congressional authorization for the payment of environmental fines and penalties that exceed $1.5 million, or those that are based on the application of economic benefit or size-of-business criteria. This provision also would block the use of funds to implement supplemental environmental projects that may be required as part of, or in lieu of, a proposed civil penalty. Section 342 would negate the current law that requires that the DOD pay fines and penalties assessed by state and federal regulatory agencies for violations of environmental laws just like every other federal agency or private party that violates the law. This provision has far-reaching ramifications and yet has not had the benefit of any public hearings to allow the Congress to examine the full impacts of the action.

This provision was added specifically in response to a large environmental fine proposed by the U.S. Environmental Protection Agency at Fort Wainwright, Alaska. At Fort Wainwright, the Army operates the largest coal burning power plant owned by the U.S. military. According to EPA documents, violations at this facility appear to be more extensive than any found to date in private coal-fired power plants. The Fort Wainwright facility clearly should pay state and federal penalties for at least 11 years of continual and serious violations of clean air standards (which may have even given rise to at least one criminal investigation by the Army). The Kerry amendment would also require a General Accounting Office report to Congress on the circumstances surrounding the Fort Wainwright facility.

Section 342 would undermine years of progress at federal, state and local levels towards improved environmental compliance by federal agencies. Congress has repeatedly declared that both state and federal environmental regulators should have the clear authority to enforce most environmental laws at federal facilities, including Defense Department installations. For example, in 1992 Congress enacted the Federal Facilities Compliance Act, clarifying regulatory agencies' authority to enforce laws governing the treatment, storage, disposal, and cleanup of hazardous wastes. In signing that law, President Bush noted that it represented a step towards fulfilling his promise to the American people that ''the Federal Government live up to the same environmental standards that apply to private citizens.'' Implementation of Section 342 could severely undermine this trend towards better compliance and likely will result in increased violations.

This provision could create a perverse incentive for the military to incur large fines so that it can seek respite from Congress. Additionally, without the threat of economic benefit fines, DOD would have less incentive to comply with state and federal environmental laws and be more likely to divert resources that should be spent on environmental compliance to other military projects. Military facilities will be above the law—eroding public confidence in government. Dan L. Crippen, the Director of the Congressional Budget Office (CBO), found that since 1994 the DOD has paid over $14 million in fines—most of which have been paid to state and local governments. The CBO also found that this program ''will likely delay payment of some fines'' and could ''make it more difficult for state and local governments to negotiate for compliance with environmental laws.''

This provisions impairs a valuable tool that states have used to improve environmental protection and derails the current trend toward federal facility accountability. Creating a special exemption for DOD from penalties for environmental violations sends the message that this federal agency can ignore and discount the laws by which everyone else must abide. Because of the serious ramifications for federal accountability and protection of the environment and public health, we strongly urge you to oppose Section 342 of the FY 2001 National Defense Authorization bill and support the Kerry amendment to strike it.

Sincerely,

Robert Dewey, Vice President of Government Relations and External Affairs, Defenders of Wildlife; Courtney Cuff, Legislative Director, Friends of the Earth; Faith Weiss, Legislative Counsel, Natural Resources Defense Council; James K. Wyerman, Executive Director, 20/20 Vision; Aimee R. Houghton, Associate Director, Center for Public Environmental Oversight; Joan Mulhern, Legislative Counsel, Earthjustice Legal Defense Fund; Betsy Loyless, Political Director, League of Conservation Voters; Anna Aurilio, Staff Scientist, U.S. Public Interest Research Group; Cindy Shogan, Alaskan Wilderness League; Dan L. Astott, President, AMAC: The AuSable Manistee Action Council; Craig Williams, Director, Chemical Weapons Working Group, Berea, KY; Peter Hille, Chairman, Kentucky Environmental Foundation, Berea, KY; Theresa Freeman, Executive Director, Military Toxics Project; Elizabeth Crowe, Director, Non-Stockpile Chemical Weapons, Citizens Coalition, Berea, KY; Carol Jahnkow, Executive Director, Peace Resource Center of San Diego; Marylia Kelly, Executive Director, Tri-Valley CAREs (Communities Against a Radioactive Environment), Livermore, CA; Naomi Shultz, Steering Committee, Common Ground, Berea, KY; DelMar Callaway, Community Co-Chair, McClellan AFB RAB; Walter R. Stochel, Jr., Edison, NJ; Richard Hugus, Otis Conversion Project, Falmouth, MA; Peter Strauss, President, PM Strauss & Associates, San Francisco, CA.

NATIONAL GOVERNORS' ASSOCIATION
NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
NATIONAL CONFERENCE OF STATE LEGISLATURES

May 18, 2000.

Hon. TED STEVENS,
U.S. Senate, Washington, DC.
Hon. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR BYRD: We, the undersigned, are writing in opposition to a proposal we understand might be offered for inclusion in the FY 2001 Defense Appropriations bill and which would require Congressional approval for payment of large environmental penalties issued against the Department of Defense. This proposal would be similar to the language in the FY 2001 defense authorization bill. Section 342 of Subtitle E. This provision would, if enacted, limit the waiver of sovereign immunity enacted by Congress in the 1992 Federal Facilities Compliance Act and the 1996 Safe Drinking Water Act Amendments, among other laws and continues an unfortunate policy created in last year's Appropriations law.

The language proposed would prohibit payment of large fines or penalties for violations of environmental laws at military installations from funds appropriated in the bill unless authorized by Congress. Such a proposal has the unfortunate effect of interjecting the legislature into what should be an independent system of law enforcement operated by the states and other environmental regulators. This approach to environmental regulation undermines the ability of states to use the threat of penalties as a means of forcing federal facilities to take responsibility for the environmental consequences of their operations.

The fact that this language applies only to large penalties is of little comfort. The federal government is the nation's largest polluter and military installations are a major contributor to that pollution. The threat of significant penalties can only be an effective deterrent to environmental violations where the penalty may be potentially proportional to the cost of compliance. A requirement for Congressional approval of penalties of a certain size unduly limits the ability of states to use this threat to effectively regulate the Department of Defense.

Congress recognized the importance of penalties in 1992 when it enacted the Federal Facilities Compliance Act clarifying the waiver of sovereign immunity in the Resource Conservation and Recovery Act. With the aid of the Federal Facilities Compliance Act and vigilance by states and other environmental regulators, we are finally making progress toward changing the attitude toward environmental compliance at federal facilities. We urge you to oppose any proposal that weakens the ability of states to continue to assess fines and penalties in whatever levels are determined by the states as necessary to ensure compliance.

Sincerely,

CHRISTINE GREGORIE,
Attorney General of Washington, President, NAAG.
KEN SALAZAR,
Attorney General of Colorado, Co-Chair, NAAG Environmental Committee.
GOVERNOR KENNY C. GUINN,
State of Nevada, NGA Chair, Committee on Natural Resources.
SENATOR BEVERLY GARD,
Indiana State Senate, Chair, NCSL Environment Committee.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 6, 2000.

STATEMENT OF ADMINISTRATION POLICY

S. 2549—NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

The Administration supports prompt congressional action on the national defense authorization bill for FY 2001 and appreciates

the Armed Services Committee's support for many of the President's national defense priorities. S. 2549, however, raises serious budget, policy, and constitutional concerns as outlined below in the SAP and in the attachment.

ENVIRONMENTAL PROVISIONS

The Administration strongly opposes section 342, which would require DOD to obtain specific authorization to comply with environmental fines and penalties assessed against the Department. The Administration is opposed to any limitation on the ability of DOD to pay fines or penalties it is liable for under law. This provision could erode public confidence in the commitment of DOD to comply with environmental laws. The Administration also believes that all Federal agencies should be held fully accountable for environmental violations and should be held to the same standards as the private sector.

Mr. LAUTENBERG. Mr. President, these letters are opposed to authorization or appropriation language that limits the importance of penalties in deterring environmental violations.

In fact, the letter signed by twenty-one environmental groups states ''Creating a special exemption for DoD from penalties for environmental violations sends the message that this federal agency can ignore and discount the laws by which everyone else must abide.''

My final point is that every time the Senate Environmental and Public Works Committee has raised this topic in hearings, the Committee has leaned toward expanding the role of fines and penalties in enforcing environmental laws at federal facilities. They did that so federal, state, and local governments would have all the tools they need to make sure all federal facilities comply with health and environmental laws.

Finally, as the Administration pointed out, ''all federal agencies should be held fully accountable for environmental violations and should be held to the same standards as the private sector.''

That is precisely what the Kerry amendment would do and I urge my colleagues to support it.

Mr. STEVENS. I urge the adoption of the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3815) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

AMENDMENT NO. 3794

Mr. BYRD. Mr. President, the China trade measure which passed the House eliminates the annual congressional renewal of most-favored-nation treatment of China, and gives China permanent normal trade relations with the United States. This legislation has not yet been scheduled for action on the Senate floor, yet there is already a concerted effort to defeat any amendments by Senators which might deviate from the provisions of the bill as passed by the House. The fear is that a different Senate version would require a conference committee, and another House vote, both of which may make it more uncertain that the legislation will be enacted this session.

Given this situation, which is an obvious egregious deviation from the traditional role of the Senate in foreign affairs, those of us who believe that the House bill can be improved must find a way to pass separate legislation which still addresses matters of importance in the burgeoning U.S.-Chinese trade relationship. There is one particular area, in which I believe the House bill and the amendments passed to it, are silent, and cry out for some adequate treatment, and that is in the area of national security. The administration argued in getting enough votes for its China trade bill in the House, that it is in the national security interest of the United States to pass the bill. I do not believe that for one moment. That is quite an assertion given the brutal Communist dictatorship in China, which systematically violates the agreements it has signed with us, and which routinely pressures U.S. firms to hand over key technologies as the price for doing business in China. This is the same Chinese dictatorship which talks about financial war with the United States, and which periodically intimidates Taiwan with threats of invasion. This is the same Chinese dictatorship which hunts down dissenters, hunts down free expression, and religious organizations with a club.

Despite this assertion, there is no mechanism to thoroughly and regularly assess the national security impacts on, and implications of, the developing trading relationship with China. The huge trade and dollar surpluses that are amassed by the Chinese Government and the tensions between the United States and China on trade and national security issues, as well as on human and labor rights, need informed and periodic review. There are those who argue that our annual debate over renewal of most-favored-nation treatment of China did not amount to much because we never failed to renew MFN. However, annual MFN review was of great importance to the Chinese Government, since it certainly provided a regular open window to expose questionable Chinese trading, human rights, military, and other policies to a wide audience.

Such monitoring and regular reporting to Congress from a reliable source is particularly important in an era where massive and unbalanced trade flows are certain to continue, and where, because of China's membership in the WTO, U.S. bilateral leverage and congressional authority under the commerce clause have been severely reduced. I would contend that the U.S.-Chinese relationship is likely to be of enduring concern to this body. Surely, the national security implications of that relationship, the impacts of massive trade deficits which now approach some $70 billion a year, the voracious appetite of the Chinese Government for military technologies, and the pressures it brings on our Asian allies are important to us. The implications of systematic unfair trade practices by the Chinese Government, of dumping into our markets, of not enforcing and not complying with agreements they have signed with us, and of pressuring Western companies to hand over important technologies as a price for doing business in China and as a quid pro quo for being able to relocate and invest in China, should be of concern to the elected representatives of the American people.

The chief Chinese imports from the United States are primarily sophisticated manufactured products, like aircraft, telecommunications equipment, and semiconductors. Many of these technologies have multiple uses, both civilian and military. China's development effort is heavily dependent on Western companies as sources of capital and technology. There are some who contend that the large surpluses, as well as the capital, and many technologies are being funneled to a concerted effort to fuel a military buildup which the Chinese could not otherwise muster. There are those who contend that we are unwittingly giving the Chinese the tools to intimidate Taiwan, our democratic friend, and our other Asian allies, such as Thailand, South Korea, Japan, and the Philippines.

Chinese military officers have recently written about the need to practice financial war, cyber war, and other economic and technologically sophisticated means of affecting the security relationship with the United States. Given the technological prowess of the United States in prosecuting the Gulf War and the Kosovo conflict, the Chinese have been reportedly alarmed regarding the obsolescence of their military machine and their military practices. The standing armies, upon which they have traditionally relied, cannot perform effectively against the new weaponry demonstrated by the United States in those conflicts. There are those in China who believe that their long-term interests lie in competition and possibly confrontation with the United States, and thus in order to compete they must rapidly acquire a range of technologies and expertise that is only available from Western firms. Are we unwittingly supplying those factions in China with the means to confront us? Certainly our own self-interest would dictate that we need to monitor these trends systematically and periodically and that is the purpose of the Byrd-Warner amendment.

I think that it is only prudent that we provide for an annual systematic review and a report to the Congress on the full range of national security implications engendered by the increased

trade and investment relationship with China. The House has a commission in its China trade bill, an executive-legislative commission to monitor a staggering range of human rights and democracy-building reforms in China. It has a full plate of responsibilities. While this sort of monitoring is certainly important, no less important should be the existence of a congressional commission to focus on the national security relationship between our two nations. The President has argued that it is in our national security interest to further open and widen our trading relations with China. That proposition should be regularly tested by an independent commission, which has the narrow mandate of monitoring our growing bilateral relationship with an eye toward United States security concerns.

The Congress last year created a 12-person commission, equally divided between Republicans and Democrats, to examine our growing negative trade balance. The Trade Deficit Review Commission will likely finish its work in a few months, with a report to the Congress and the President, on the implications of our global deficits, recommending new practices, institutions and policies. It has already conducted hearings and studies on the Chinese relationship. Mr. WARNER and I suggest that this same commission is an appropriate tool, extended and refocused, to conduct an annual Chinese assessment and review. Such a refocused commission would serve as a good companion to the one proposed by the House bill on human rights and democratic reforms in China. Its existence and assessments would certainly help to repair the dangerous erosion of congressional involvement in, and leverage over, foreign commerce envisioned as essential to our national well being by the framers. It would help to replace congressional monitoring of China resulting from her accession to the World Trade Organization, in an area critical to the deeply rooted constitutional responsibilities of this body.

That is the purpose of the amendment which Senator WARNER and I and other Senators have offered. In summary, the commission would review the national security implications of our trade and investment relations with China, including the following elements:

One, the portion of trade in goods and services dedicated by the Chinese Government to military systems;

Two, an analysis of the statements and writings of Chinese officials bearing on the intentions of the Chinese Government regarding military competition with and leverage over the United States and its Asian allies;

Three, the military actions taken by the Chinese Government over the preceding years bearing on the national security of the United States and its Asian allies;

Four, the acquisition by the Chinese Government of advanced military technologies and systems through U.S. trade and Chinese procurement policies;

Five, the use of financial transactions, capital flows, and currency manipulations to affect the national security of the United States;

Six, actions taken by the Chinese Government in the context of the WTO which are adverse to U.S. national security interests;

Seven, an overall assessment of the state of any security challenges to the U.S. by the Chinese Government and whether the trend from previous years is increasing or declining; and finally, the commission would also provide recommendations for action, including any use of the national defense waiver provision that already exists in the GATT Treaty, and applies to the WTO. This article, article 21 of the GATT, has never been used by any nation state, but remains available to be triggered if the Congress finds some aspect of our growing relationship with China on the trade account which adversely affects our national security and needs to be stopped or somehow moderated.

In addition to these matters, there is also growing concern over the activities of China in transferring missile technologies to other nations, affecting the security of the United States and, also, our Asian allies. The proliferation of such technologies to Pakistan is the subject of ongoing discussions between the United States and the Government of China. Unfortunately, the Chinese have given no sign that they intend to halt their highly dangerous trade in missile technologies and components.

Many Senators have expressed their concern over this practice, including the distinguished Senator from Tennessee, Mr. THOMPSON, and the distinguished Senator from New Jersey, Mr. TORRICELLI. It is my intention, and my expectation, and it is the intention of my very close and dear colleague, Senator WARNER—it is our intention and expectation that the U.S.-China Security Review Commission will investigate, report and make recommendations on Chinese trade in missile components, which affects our long-term security and that of our Asian allies. In this amendment by Mr. WARNER and myself, both paragraphs (E), dealing with military actions taken by the Chinese Government, and (J), requiring an overall assessment of the state of the security challenges presented by China to the United States provide ample mandate to the commission to conduct such investigations on a regular basis.

I will be happy to yield the floor to my colleague, Mr. WARNER.

I cannot yield the floor to another Senator. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am, indeed, very honored to be a principal cosponsor with my friend and fellow member of the Armed Services Committee on this piece of legislation. This is a very important step. China should not perceive this as a threat. China should not perceive this in any other way than a positive step by the Congress to establish or keep in place this ongoing commission for the purpose of advising the Congress from time to time.

We do not have as individual Members—of course, our committees perform oversight, but we do not have an opportunity, on a daily or weekly basis, to monitor the various criteria as set forth in the Byrd-Warner legislation. This commission will, again, be established by the Congress with six Members appointed by the Senate and six Members appointed by the House in a bipartisan manner, and it will be the watchdog to inform us from time to time.

China in this millennium will compete with the United States, the world's only superpower, on a broad range of fronts—not just foreign affairs, not just national security, not just trade and economics, but in areas which we cannot even envision tonight, as this new millennium unfolds and this cyberspace in which we are all involved engulfs us day after day. The distinguished Senator from West Virginia pointed out some representations by certain individuals in China about their desire to get more involved in cyberspace for national security reasons. That is one of the important functions of this commission.

I am very pleased to join with him because China will be the competitor. The Senate and the House—the Congress collectively—needs its own resource, and I underline that. I commend my distinguished colleague and friend from West Virginia.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. WARNER. Yes.

Mr. BYRD. Otherwise, the Congress is at the mercy of an administration—the administration—for information.

Mr. WARNER. That is correct.

Mr. BYRD. In this case, this commission will report to the Congress, so we do not have to depend upon information from the Executive; we have our own.

Mr. WARNER. Of course, Mr. President, from time to time, committees of this body—indeed, the Committee on Foreign Relations, the Committee on Armed Services, the Governmental Affairs Committee—take active roles, but they do not do it every single day as this commission will monitor, together with the chairman and members and the staff.

Mr. BYRD. Yes.

Mr. WARNER. I yield the floor.

Mr. ROTH. Mr. President, I rise today in opposition to the amendment offered by my distinguished colleague from West Virginia, Mr. BYRD. I do so because the commission created by this legislation is, in my view, flawed. That is why I tried to work with my good friend from West Virginia to address the concerns that I am raising. Unfortunately, we were unable to come to an

agreement. For the following reasons, I must oppose this amendment and I urge my colleagues to do the same.

First, let me say that if my colleague's intent is to establish a commission to provide sound advice to Congress regarding our broader relationship with China and its effect on our national security, then there are ways to create a meaningful mechanism for doing just that. One, for example, would have been to build the Senator's concerns into the quadrennial defense review required under previous versions of the National Defense Authorization Act. By giving the responsibility to a standing body like the National Defense Panel that already conducts the quadrennial defense review, we would have saved the taxpayers' money, while getting the benefit of the unchallenged expertise of many of the foremost authorities on our national security and on military matters. And, we would have put the report in Congress' hands by next spring.

Instead, my colleague has adopted an approach I have not seen in my years in the Senate. He wants to take the commissioners, staff and clerical personnel of a commission constructed for very different purposes and employ it to look at our security relationship with China. That commission—the Trade Deficit Review Commission—is staffed with commissioners and staff appointed due to their expertise in economic policy. Frankly, this is simply the wrong group to undertake a serious review of the impact on our national security of our relationship with China. And, there is absolutely no benefit in terms of accelerating the progress toward a final report when compared to giving the responsibility to the National Defense Panel.

I must say that I do not understand my friend's interest in perpetuating the life of the Trade Deficit Review Commission for this task. The Trade Deficit Review Commission is already overdue in providing us its report on the trade deficit. My expectation when we created that commission was that we would have had its work product by now. Instead, my colleague recently supported a three-month extension so the Trade Deficit Review Commission could complete its now amply-delayed report. In my view, we should let the Trade Deficit Commission complete its existing work, rather than burdening it with new responsibilities, even if only administrative in nature, before it has completed its primary task.

Second, I am concerned that the way the issues as stated in my friend's bill could be read to imply that the United States already considers China an enemy and a threat to our national security. China clearly is an emerging force in the international arena. In many ways, China's emergence could be beneficial to the United States. There are, nonetheless, concerns, which I share, regarding the PRC's behavior on security-related matters. Those issues bear careful scrutiny.

Having said that, it should also be clear that the shape and direction of the relationship between our countries is evolving and remains to be shaped. What that suggests is the need for a thoughtful, comprehensive and, most importantly, balanced review of the security implications of our bilateral relationship with China. That is, in fact, what I suggested to my colleague we should do.

Third, I offered my friend my thoughts on the technical changes needed to make the commission's job clear. I worry, however, that, as it stands now, the commission's duties will be extremely difficult for any commissioner to decipher. For example, the proposed commission is supposed to examine the ''portion of trade in goods and services that the People's Republic of China dedicates to military systems or systems of a dual nature that could be used for military purposes.'' The problem is no country dedicates its trade to military systems. That is simply not a meaningful concept. I am not even sure what a ''system of a dual nature'' is? It is, furthermore, literally impossible for a country to dedicate a portion of a trade surplus to its military budget because a trade surplus is not cash in hand, as the proposal implies.

Similarly, the proposal simply misunderstands the nature of the World Trade Organization and particularly Article XXI if it asks for recommendations as to how China's participation there would harm us or whether Article XXI should be more frequently invoked. What the WTO provides is a forum in which to negotiate the reduction of tariffs and other trade barriers. What do we have to fear from China lowering its trade barriers in national security terms? As to Article XXI, that provision is invoked when we do something to China in trade terms, not when China does something to us.

That leads me to my final point. What the statement of the proposed commission's duties makes clear, and what I object to most strongly to, is its premise. There are many issues that I could conceive of addressing in a serious, comprehensive and balanced review of our security relationship with China. Issues related to regional stability and weapons proliferation to name just two. But, what this amendment suggests is that our commercial engagement with China somehow threatens our national security interests—that in some way, the fact that we buy toys and appliances from the Chinese, and the fact that they buy agricultural products and heavy equipment from us endangers the American people. That is simply not the case.

Nor is there anything about China's upcoming accession to the World Trade Organization that makes such a review any more relevant. After all, China has committed to open its market to our goods and services to gain entry to the WTO. China's accession to the WTO does nothing to reduce our security. If anything, it reduces a point of friction in our relationship with China in a way that is only positive.

Under the circumstances, I cannot support the creation of a permanent commission with an uncertain mission that would not reach many of the fundamental issues that should be addressed in our relationship with China. I urge my colleagues to oppose the amendment as well.

Mr. BYRD. Mr. President, will the clerk read the other cosponsors of the amendment, in addition to Mr. WARNER and myself.

The PRESIDING OFFICER. The clerk will read the names.

The assistant legislative clerk read as follows:

Mr. BYRD, for himself, Mr. WARNER, Mr. LEVIN, Mr. HOLLINGS, Mr. HELMS, Mr. BREAUX, Mr. HATCH, Mr. CAMPBELL, Mrs. LINCOLN, and Mr. WELLSTONE.

Mr. BYRD. I thank the Chair, and I thank the clerk.

Mr. President, I ask for a vote on the amendment.

Mr. WARNER. Mr. President, with the concurrence of my distinguished senior colleagues, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3794.

The amendment (No. 3794) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3767, as amended.

The amendment (No. 3767), as amended, was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. I thank the Chair.

Mr. BYRD. Do we not wish to proceed on the vote on the amendment in the first degree, as amended?

The PRESIDING OFFICER. We have agreed to the first and the second-degree amendments.

Mr. BYRD. I thank the Chair. I thank all Senators. And I thank my colleague, Mr. WARNER.

Mr. WARNER. I thank my colleague, the senior Senator from West Virginia.

Now, from the unanimous consent agreement, the distinguished Senator from Wisconsin is to be recognized.

AMENDMENT NO. 3759

(Purpose: To terminate production under the D5 submarine-launched ballistic missile program)

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I call up amendment No. 3759 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. HARKIN, Mr. WELLSTONE, and Mr. WYDEN, proposes an amendment numbered 3759.

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

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

The amendment is as follows:

On page 31, between lines 18 and 19, insert the following:

SEC. 126. D5 SUBMARINE-LAUNCHED BALLISTIC MISSILE PROGRAM.

(a) REDUCTION OF AMOUNT FOR PROGRAM.—Notwithstanding any other provision of this Act, the total amount authorized to be appropriated by this Act is reduced by $462,733,000.

(b) PROHIBITION.—None of the remaining funds authorized to be appropriated by this Act after the reduction made by subsection (a) may be used for the procurement of D5 submarine-launched ballistic missiles or components for D5 missiles.

(c) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate production of D5 submarine ballistic missiles under the D5 submarine-launched ballistic missile program after fiscal year 2001.

(d) PAYMENT OF TERMINATION COSTS.—Funds available on or after the date of the enactment of this Act for obligation for the D5 submarine-launched ballistic missile program may be obligated for production under that program only for payment of the costs associated with the termination of production under this Act.

(e) INAPPLICABILITY TO MISSILES IN PRODUCTION.—Subsections (c) and (d) do not apply to missiles in production on the date of the enactment of this Act.

Mr. FEINGOLD. Mr. President, quite simply, this amendment will terminate the future production of the Navy's Trident II missile. I am pleased to be joined in this effort by the Senator from Iowa, Mr. HARKIN, the Senator from Minnesota, Mr. WELLSTONE, and the Senator from Oregon, Mr. WYDEN.

I have made it a priority to seek to eliminate unnecessary Government spending. To the occasional consternation of some in this Chamber and elsewhere, I have come to the floor time and time again to try to scale back or terminate costly Federal programs, many of which have outlived their usefulness.

In my view, the Trident II program is just the kind of cold war relic that we can and should eliminate.

The Trident II, also called the D–5, is the Navy's submarine-launched ballistic missile. It was designed specifically to be a first-strike strategic missile that would attack targets inside the Soviet Union from waters off the continental United States.

By halting further production of the Trident II missile, we would save American taxpayers more than $460 million in fiscal year 2001 alone, and according to the CBO, we would save $2.6 billion over the next 10 years, from 2001 to 2010.

The Navy now has in its arsenal 372 Trident II missiles, and has requested funding this year for an additional 12. The legislation currently before this body includes more than $430 million for those additional 12 missiles.

It also authorizes an additional $28.8 million for advanced procurement for still more Trident II missiles that the Navy hopes to purchase in future years.

Let me be clear. My amendment would halt production of additional Trident II missiles. It does not in any way prevent the Navy from operating or maintaining its current arsenal of 372 Trident II missiles.

I would like to take a moment to talk about the Trident II, its predecessor, the Trident I, and the reasons why I believe this Trident II program should be terminated.

The Trident II is deployed aboard the Navy's fleet of 18 Ohio-class submarines. Ten of these subs are equipped with Trident II missiles. The oldest eight subs in the fleet are equipped with the older Trident I, or C-4, missile.

The Navy is already moving toward downsizing its Trident fleet from 18 to 14 in order to comply with the provisions of the START II treaty. Some observers suggest simply retiring the four oldest Ohio-class submarines in order to achieve that goal. Others support converting those subs, which carry the older Trident I missle, to carry conventional missiles. The CBO estimates that this conversion alone would cost about $3.3 billion over 10 years.

That leaves four other submarines that are equipped with the older Trident I missiles. The Navy wants to backfit those four subs to carry newer Trident II missiles.

The Navy's current goal is to have 14 submarines with 24 Trident II missiles each, for a total of 336 missiles, with a number of additional missiles for testing purposes. The CBO estimates that a total of 425 missiles would be required to fully arm 14 submarines and have sufficient missiles also for testing. That would mean the purchase of at least 53 more missiles.

We already have 372 Trident II missiles—more than enough to fully arm the 10 existing Trident II submarines and to maintain an inventory for testing. So why do we need 12 more?

Why do we need to spend the taxpayers' money on advanced procurement to buy even more missiles in future years?

And why do we need to backfit the aging remains of the Trident I fleet at all? Ten fully-equipped Trident II submarines are more than capable of being an effective deterrent against the moth-balled Russian submarine fleet and against the ballistic missile aspirations of rogue states, including China and North Korea.

And the aging Trident I subs won't outlast the Trident I missiles they currently carry, let alone the additional Trident II missiles the Navy wants to build for them to the tune of about $40 million per missile.

The CBO has recommended terminating the further production of the Trident II missile, which would save $2.6 billion over the next 10 years, and retiring all eight of the Trident I submarines, which would save an additional $2.3 billion over the next 10 years, for a total savings of $4.9 billion.

I do recognize that there is still a potential threat from rogue states and from independent operators who seek to acquire ballistic missiles and other weapons of mass destruction. I also recognize that our submarine fleet and our arsenal of strategic nuclear weapons still have an important role to pay in warding off these threats. Their role, however, has diminished dramatically from what it was at the time of the cold war. Our missile procurement decisions should really reflect that change and it should reflect the realities of the post-cold-war world.

Our existing inventory of 372 Trident II missiles is far superior to any other country on the globe. And each of these missiles contains eight independently targetable nuclear warheads, for a total of 192 warheads per submarine. The 372 missiles currently in the Navy's inventory contain 2,976 warheads. Each warhead packs between 300 to 450 kilotons of explosive power.

For a comparison—which is really quite striking—the first atomic bomb that the United States dropped on Hiroshima generated 15 kilotons of force. Let's do the math for just one fully-equipped Trident II submarine.

Each warhead can generate up to 450 kilotons of force. Each missile has eight warheads, and each submarine has 24 missiles. That equals 86.4 megatons of force per submarine. That is the equivalent of 5,760 Hiroshimas. Let me say that again: the power of 5,760 Hiroshimas on just one submarine.

The Navy currently has 10 such submarines, and they want to backfit another four with these devastating weapons. It is hard to imagine why we need to procure more of these weapons when those we already have could destroy the Earth many times over.

And it is especially hard to comprehend why we need more Trident II missiles when we take into account the fact that the Trident II is only one of the several types of ballistic missiles the Department of Defense has in its arsenal.

The world is changing. Earlier this year, the Russian Duma ratified the START II treaty, a move that seemed highly unlikely just 1 year ago. And Russia has also ratified the Comprehensive Nuclear Test Ban Treaty, something that this body regrettably failed to do last fall.

I cannot understand the need for more Trident II missiles at a time when the Governments of the United States and Russia are in negotiations to implement START II and are also discussing a framework for START III. These agreements call for reductions in our nuclear arsenal, not increases. To spend scarce resources on building

more missiles now is short sighted and could seriously undermine our efforts to negotiate further arms reductions with Russia.

The debate on the underlying legislation is one about priorities. We should stop spending taxpayer dollars on defense programs that have unfortunately survived the cold war and should instead concentrate on military readiness and better pay and benefits for our men and women in uniform.

So I urge my colleagues to support this sensible amendment, which has been endorsed by Taxpayers for Common Sense, the Center for Defense Information, the Peace Action Education Fund, the Union of Concerned Scientists, the Council for a Liveable World, Physicians for Social Responsibility, and the 20/20 Vision Education Fund.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. FEINGOLD. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I rise in opposition to the Feingold amendment. I happen to believe we need a strong national defense. I think an important ingredient in having a strong national defense is that we have a defense system that is technologically advanced over any opposition we may face in the world; that we have a versatile defense system; and that we have some mobility so we can avoid duplication.

A key ingredient of a strong national defense is our submarine program, which includes the submarine-launched ballistic missile. An important part of a submarine-launched ballistic missile is the D–5.

The Feingold amendment would cut $462.7 million in funds to procure the Trident D–5 missiles and, in effect, would terminate the D–5 production program. For that reason, I strongly oppose this amendment.

The Department of Defense also happens to oppose this amendment. That was not an easy decision. There was a lot of consideration on what should be the proper level of defense and how submarine defenses should be a part of that. The Navy, after a considerable amount of thought, decided they needed to outfit a total of 14 Trident submarines with the D–5 missile. This will require a total inventory of 425 Trident missiles. With the fiscal year 2000 budget, the Navy will have 53 missiles left to procure to meet this inventory objective. We have gone through most of the program. We are not going to have much left, as far as funding missiles, after this fiscal year.

In 1994, there was a nuclear posture review. This review was done by the Department of Defense and it has been persistently evaluated. The conclusion is that the U.S. needs 14 Trident submarines at a minimum to be able to maintain a two-ocean SLBM force that is stabilizing, operationally effective, and which enhances deterrence.

The Department of Defense is planning on maintaining 14 Trident submarines for the foreseeable future regardless of arms control developments. Current plans are to maintain 14 boats under START II as well as under START III. Terminating the D–5 program, after fiscal year 2000, would mean the Navy would only have enough missiles to outfit 11 boats. Over time, as operational flight testing uses up an already inadequate missile inventory, you begin to reduce the number of submarines you would be able to maintain on operational status even further. We would decidedly have a lack of missiles to meet the goal for a two-ocean SLBM force.

The Feingold amendment cuts the entire fiscal year 2001 budget request for D–5 production. However, even if the Congress wanted to terminate the D–5 program following the fiscal year 2001 procurement, the Navy would still need to spend over $330 million in procurement funds to terminate the production program. Hence, the Feingold amendment would not only prematurely stop production, but it would also preclude orderly termination of the program.

Way back in January of this year, in a report to Congress, the Secretary of Defense stated that the impact of procuring less than 425 of the D–5 missiles would be very severe. Specifically, the Secretary of Defense indicated that such a decision would have adverse impacts on the effectiveness of the U.S. strategic deterrent, severely weaken reliability, accuracy, and safety assessments associated with the D–5 operational flight test program, and would undermine the strategic missile industrial and production base of the United States at a time when the D–5 missile is the only strategic missile still in production.

The Secretary's report also indicated that termination of the D–5 missile before the planned completion of 425 missiles would result in a unilateral reduction of deployed U.S. strategic warheads in both the START I and the START II regimes and is not consistent with U.S. START III plans.

The Navy also looked at retaining older C–4 missiles to fill in the lack of the D–5 missiles. It concluded that this would be even more costly and inefficient than simply completing the D–5 production run.

With only 53 missiles to procure, termination at this point will produce only marginal savings and will have a severe operational impact on our ability to maintain a stable deterrent force.

It is based on these factors that I strongly urge my colleagues to oppose the amendment by the Senator from Wisconsin.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate the opportunity to debate this with the Senator from Colorado. I will clear up a couple of factual points before I make a few general statements.

First, as I understand it, the question of termination costs will not be a problem that will be absorbed because of this amendment, because any unexpended funds can be used for purposes of the termination costs. I don't think that is a major objection.

Secondly, I believe the Senator suggested this would have some impact on missiles already in production. That is not the case. That is not the way our amendment is drafted. That is not what it will do.

The most important point is that the Senator from Colorado indicates that these missiles are a key ingredient in our national defense. Let's assume that is the case. The fact is, we already have 372 of these missiles. I believe the burden is on those asking for this additional funding to show that that is not enough.

Assuming it is a key ingredient, do we really need more than 372? Do we really need these additional 53 missiles? As I indicated earlier, we have 2,976 warheads based on our current 372 missiles, and that is the equivalent of 25,760 Hiroshimas per submarine. I think the burden is on those wanting to spend this additional money to show that we need a stronger deterrent than that.

The Senator from Colorado suggested adverse impacts on deterrence if we don't do these additional 12. After 25,760 Hiroshimas per submarine, we need additional deterrence? I didn't hear a single statement from the Senator from Colorado suggesting exactly what the real adverse impacts are of just not doing these additional missiles.

I suggest the money is desperately needed not only in general but, even within the defense budget, for the people who serve our country, their pay, their conditions, their housing, readiness, including that of the National Guard, for example. In my State, the people in the National Guard desperately need these resources, for example, for inventory, for training. They are very strapped. They are now taking a great deal of responsibility for our standing Army. To me, the priorities are wrong. We have more than adequate deterrence with these 372 missiles.

I suggest the case has not been made, as it must be, by those who want to make the expenditure for these additional missiles.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I will respond, if I may.

The amendment cuts funds which would require termination of the program, plain and simple. DOD has repeatedly reviewed that very question.

Each time they have concluded we need 53 additional missiles.

Keep in mind, the goal originally was set up that we needed to maintain a submarine force in the Pacific Ocean as well as the Atlantic Ocean. It was determined that, at a minimum, we had to have 14 submarines, and we needed to have them adequately armed in order to provide the defenses we need.

The Trident submarine is the core of the U.S. strategic deterrent force, and the Trident force is the most survivable leg of our strategic triad.

I think it is important we go ahead and complete this program, recognizing that we are towards the end of manufacturing of the missiles.

I think it only makes sense that we complete it and maintain a strong defense. I believe a strong defense does serve as a deterrent, and it helps assure world peace. For that reason, I strongly oppose the amendment of the Senator from Wisconsin.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin has 3 minutes 25 seconds.

Mr. FEINGOLD. Mr. President, I don't know how much more I will debate this. I want to respond to the point about the study and analysis that the Senator from Colorado appears to rely on most exclusively. That analysis was done prior to the time the Russian Duma approved START II. This is an example. It is not looking at the present relationship we have and our goals with regard to Russia and the future negotiations, not only with regard to what is going on now, but with START III.

The whole point is that we have to look at current realities, look at what we have—372 missiles—and their capacity, and our goals as to what message we want to send to Russia as we negotiate what is hoped to be a reduction in the nuclear arsenals. I think it is simply not only an unwise expenditure, but also an attitude that does not reflect what we are trying to accomplish with regard to our negotiations with Russia.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I believe I need to respond again. We have had a report as late as January of this year, and it is that we should maintain 14 Trident submarines not only through START I and II, but also START III. So I think this is forward looking. I think it helps us assure our goals of a strong defense. It maintains a versatile force and keeps us technologically advanced, with the mobility we need. I think it is an essential aspect of our defense, and I think it would be foolhardy for us to cut the funds necessary to fully develop the 425 D–5 missiles for the Trident submarine.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I yield back the remainder of my time.

Mr. ALLARD. Mr. President, I yield back the remainder of our time on this side.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, might I inquire? I was off the floor. Have the yeas and nays been ordered for tomorrow?

The PRESIDING OFFICER. Yes, that is correct.

Mr. WARNER. It is ready to be sequenced tomorrow for the purpose of voting?

The PRESIDING OFFICER. Yes.

Mr. WARNER. I thank the Senators. We are now ready to hear from our distinguished colleague from Illinois, if he is ready.

I will ask our colleague from Illinois two questions. One, on the assumption that Mr. LEVIN will soon return to the floor, I ask if we could interrupt for the purpose of clearing some en bloc amendments, which will enable the staff who otherwise would be here to return to their offices and use their time productively. We will ask for that at the appropriate time. Has the Senator indicated the amount of time he might seek for purposes of debate?

Mr. DURBIN. Mr. President, there are three Members on the floor who will be seeking recognition, and we anticipate a maximum of 60 minutes on this side. I don't know how much is needed on the other side.

Mr. WARNER. I thank the Senator. In looking this over, I am inclined to think that we can, in the course of the conference, gain some support. I hope it remains in a factual manner and that the legislative history you are about to make in terms of your remarks, together with your colleagues, support what is in this amendment.

Mr. DURBIN. Mr. President, I thank the chairman for his forbearance in scheduling this debate. I don't think any of us had hoped it would occur at 8:30 at night, but that is the situation we are in. This is a very important debate.

AMENDMENT NO. 3732

(Purpose: To provide for operationally realistic testing of National Missile Defense systems against countermeasures, and to establish an independent panel to review the testing)

Mr. DURBIN. 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 Illinois [Mr. DURBIN], for himself, Mr. WELLSTONE, Mr. BINGAMAN, Mr. JOHNSON, Mr. KERRY, Mr. KENNEDY, Mr. HARKIN, and Mr. WYDEN, proposes an amendment numbered 3732.

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

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

The amendment is as follows:

On page 53, after line 23, insert the following:

SEC. 243. OPERATIONALLY-REALISTIC TESTING AGAINST COUNTERMEASURES FOR NATIONAL MISSILE DEFENSE.

(a) TESTING REQUIREMENTS.—The Secretary of Defense shall direct the Ballistic Missile Defense Organization—

(1) to include in the ground and flight testing of the National Missile Defense system that is conducted before the system becomes operational any countermeasures (including decoys) that—

(A) are likely, or at least realistically possible, to be used against the system; and

(B) are chosen for testing on the basis of what countermeasure capabilities a long-range missile could have and is likely to have, taking into consideration the technology that the country deploying the missile would have or could likely acquire; and

(2) to determine the extent to which the exoatmospheric kill vehicle and the National Missile Defense system can reliably discriminate between warheads and such countermeasures.

(b) FUTURE FUNDING REQUIREMENTS.—The Secretary, in consultation with the Director of the Ballistic Missile Defense Organization shall—

(1) determine what additional funding, if any, may be necessary for fulfilling the testing requirements set forth in subsection (a) in fiscal years after fiscal year 2001; and

(2) submit the determination to the congressional defense committees at the same time that the President submits the budget for fiscal year 2002 to Congress under section 1105(a) of title 31, United States Code.

(c) REPORT BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall, except as provided in paragraph (4), submit to Congress an annual report on the Department's efforts to establish a program for operationally realistic testing of the National Missile Defense system against countermeasures. The report shall be in both classified and unclassified forms.

(2) The report shall include the Secretary's assessment of the following:

(A) The countermeasures available to foreign countries with ballistic missiles that the National Missile Defense system could encounter in a launch of such missiles against the United States.

(B) The ability of the National Missile Defense system to defeat such countermeasures, including the ability of the system to discriminate between countermeasures and reentry vehicles.

(C) The plans to demonstrate the capability of the National Missile Defense system to defeat such countermeasures and the adequacy of the ground and flight testing to demonstrate that capability.

(3) The report shall be submitted not later than January 15 of each year. The first report shall be submitted not later than January 15, 2001.

(4) No annual report is required under this section after the National Missile Defense system becomes operational.

(d) INDEPENDENT REVIEW PANEL.—(1) The Secretary of Defense shall reconvene the Panel on Reducing Risk in Ballistic Missile Defense Flight Test Programs.

(2) The Panel shall assess the following:

(A) The countermeasures available for use against the United States National Missile Defense system.

(B) The operational effectiveness of that system against those countermeasures.

(C) The adequacy of the National Missile Defense flight testing program to demonstrate the capability of the system to defeat the countermeasures.

(3) After conducting the assessment required under paragraph (2), the Panel shall evaluate—

(A) whether sufficient ground and flight testing of the system will have been conducted before the system becomes operational to support the making of a determination, with a justifiably high level of confidence, regarding the operational effectiveness of the system;

(B) whether adequate ground and flight testing of the system will have been conducted, before the system becomes operational, against the countermeasures that are likely, or at least realistically possible, to be used against the system and that other countries have or likely could acquire; and

(C) whether the exoatmospheric kill vehicle and the rest of the National Missile Defense system can reliably discriminate between warheads and such countermeasures.

(4) Not later than March 15, 2001, the Panel shall submit a report on its assessments and evaluations to the Secretary of Defense and to Congress. The report shall include any recommendations for improving the flight testing program for the National Missile Defense system or the operational capability of the system to defeat countermeasures that the Panel determines appropriate.

(e) COUNTERMEASURE DEFINED.—In this section, the term ''countermeasure''—

(1) means any deliberate action taken by a country with long-range ballistic missiles to defeat or otherwise counter a United States National Missile Defense system; and

(2) includes, among other actions—

(A) use of a submunition released by a ballistic missile soon after the boost phase of the missile;

(B) use of anti-simulation, together with such decoys as Mylar balloons, to disguise the signature of the warhead; and

(C) use of a shroud cooled with liquid nitrogen to reduce the infrared signature of the warhead.

Mr. DURBIN. Mr. President, what we are going to discuss this evening is one of the most expensive, and perhaps one of the most important, elements in our Nation's national defense. We are going to discuss the national missile defense system.

The reason for its importance, I guess, could be summarized in several ways. First, it is an extraordinary expenditure of money. It is anticipated that if we are going to meet our first goal by 2005, we will spend up to $60 billion. That is an exceptional expenditure, even by Federal standards, even by the standards of the Department of Defense.

Second, those who support this system are telling us that our goal is to basically protect America from attack by rogue missiles, by those enemies of the United States who might launch a missile at us and threaten our cities and population. So the importance of the system we are talking about cannot be overstated.

Third, we know that if we go forward with this, we run the risk of complicating our negotiations with other countries in the world—particularly Russia and China—about the reduction in their nuclear arsenals. So this is high-stakes poker. We are talking about a decision, in terms of our national defense, which may be one of the most important in history.

I have a very straightforward amendment that will require that the national missile defense system test realistic countermeasures before becoming operational, and that an independent review panel—the Welch panel—assess the testing program in light of these countermeasure problems. The President is slated to decide soon whether to deploy a national missile defense system. This bill we are debating authorizes spending almost $5 billion in the next fiscal year for this program.

The Congressional Budget Office has estimated the contemplated national missile defense total cost at $60 billion, when all components are considered. Whether one thinks that deciding to deploy a national missile defense system at this moment is a good idea or not, I hope we can all agree that once that system becomes operational, it should work. If we are going to spend $60 billion, we ought to have a high level of confidence that it will in fact protect us from rogue states firing a missile. If the fate of America will truly hang in the balance, we owe this Nation and every family and every mother, father, and child our very best effort in building a credible, effective deterrence.

Such a high level of confidence is not possible until this system is tested against likely responses from emerging missile states, known as countermeasures or decoys. If the missile system cannot discriminate between warheads and decoys, it is, as a practical matter, useless because enemies will simply be able to overwhelm it with cheap decoys.

At this point, I will yield time to my colleagues who have gathered here to be part of this debate. At the end of their statements, I will reclaim my time and conclude.

Mr. WARNER. Mr. President, I ask at this time if I may clear some amendments and ask unanimous consent that the time consumed by the two managers not in any way be counted against the time for the Senator from Illinois.

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

AMENDMENTS NOS. 3733, 3734, 3737, AND 3762, AS MODIFIED, EN BLOC

Mr. WARNER. Mr. President, Senator LEVIN and I have several amendments cleared by myself and the ranking member, some of which have been modified. I call up amendments Nos. 3733, 3737, 3734, and I send to the desk a modified version of amendment No. 3762. I ask unanimous consent that these amendments be considered en bloc, that the Senate agree to the amendments, and that the motions to reconsider be laid on the table.

Finally, I ask unanimous consent that statements relating to individual amendments be printed at the appropriate place in the RECORD.

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

The amendments (Nos. 3733, 3734, 3737, and 3762, as modified) were agreed to, as follows:

AMENDMENT NO. 3733

(Purpose: To authorize grants for the maintenance, repair, and renovation of school facilities that serve dependents of members of the Armed Forces and Department of Defense employees)

On page 123, between lines 12 and 13, insert the following:

SEC. 377. ASSISTANCE FOR MAINTENANCE, REPAIR, AND RENOVATION OF SCHOOL FACILITIES THAT SERVE DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) GRANTS AUTHORIZED.—Chapter 111 of title 10, United States Code, is amended—

(1) by redesignating section 2199 as section 2199a; and

(2) by inserting after section 2198 the following new section:

''§ 2199. Quality of life education facilities grants

''(a) REPAIR AND RENOVATION ASSISTANCE.—(1) The Secretary of Defense may make a grant to an eligible local educational agency to assist the agency to repair and renovate—

''(A) an impacted school facility that is used by significant numbers of military dependent students; or

''(B) a school facility that was a former Department of Defense domestic dependent elementary or secondary school.

''(2) Authorized repair and renovation projects may include repairs and improvements to an impacted school facility (including the grounds of the facility) designed to ensure compliance with the requirements of the Americans with Disabilities Act or local health and safety ordinances, to meet classroom size requirements, or to accommodate school population increases.

''(3) The total amount of assistance provided under this subsection to an eligible local educational agency may not exceed $5,000,000 during any period of two fiscal years.

''(b) MAINTENANCE ASSISTANCE.—(1) The Secretary of Defense may make a grant to an eligible local educational agency whose boundaries are the same as a military installation to assist the agency to maintain an impacted school facility, including the grounds of such a facility.

''(2) The total amount of assistance provided under this subsection to an eligible local educational agency may not exceed $250,000 during any fiscal year.

''(c) DETERMINATION OF ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—(1) A local educational agency is an eligible local educational agency under this section only if the Secretary of Defense determines that the local educational agency has—

''(A) one or more federally impacted school facilities and satisfies at least one of the additional eligibility requirements specified in paragraph (2); or

''(B) a school facility that was a former Department of Defense domestic dependent elementary or secondary school, but assistance provided under this subparagraph may only be used to repair and renovate that facility.

''(2) The additional eligibility requirements referred to in paragraph (1) are the following:

''(A) The local educational agency is eligible to receive assistance under subsection (f) of section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) and at least 10 percent of the students who were in average daily attendance in the schools of such agency during the preceding school year were students described under paragraph (1)(A) or (1)(B) of section 8003(a) of the Elementary and Secondary Education Act of 1965.

''(B) At least 35 percent of the students who were in average daily attendance in the

schools of the local educational agency during the preceding school year were students described under paragraph (1)(A) or (1)(B) of section 8003(a) of the Elementary and Secondary Education Act of 1965.

''(C) The State education system and the local educational agency are one and the same.

''(d) NOTIFICATION OF ELIGIBILITY.—Not later than June 30 of each fiscal year, the Secretary of Defense shall notify each local educational agency identified under subsection (c) that the local educational agency is eligible during that fiscal year to apply for a grant under subsection (a), subsection (b), or both subsections.

''(e) RELATION TO IMPACT AID CONSTRUCTION ASSISTANCE.—A local education agency that receives a grant under subsection (a) to repair and renovate a school facility may not also receive a payment for school construction under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) for the same fiscal year.

''(f) GRANT CONSIDERATIONS.—In determining which eligible local educational agencies will receive a grant under this section for a fiscal year, the Secretary of Defense shall take into consideration the following conditions and needs at impacted school facilities of eligible local educational agencies:

''(1) The repair or renovation of facilities is needed to meet State mandated class size requirements, including student-teacher ratios and instructional space size requirements.

''(2) There is a increase in the number of military dependent students in facilities of the agency due to increases in unit strength as part of military readiness.

''(3) There are unhoused students on a military installation due to other strength adjustments at military installations.

''(4) The repair or renovation of facilities is needed to address any of the following conditions:

''(A) The condition of the facility poses a threat to the safety and well-being of students.

''(B) The requirements of the Americans with Disabilities Act.

''(C) The cost associated with asbestos removal, energy conservation, or technology upgrades.

''(D) Overcrowding conditions as evidenced by the use of trailers and portable buildings and the potential for future overcrowding because of increased enrollment.

''(5) The repair or renovation of facilities is needed to meet any other Federal or State mandate.

''(6) The number of military dependent students as a percentage of the total student population in the particular school facility.

''(7) The age of facility to be repaired or renovated.

''(g) DEFINITIONS.—In this section:

''(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

''(2) IMPACTED SCHOOL FACILITY.—The term 'impacted school facility' means a facility of a local educational agency—

''(A) that is used to provide elementary or secondary education at or near a military installation; and

''(B) at which the average annual enrollment of military dependent students is a high percentage of the total student enrollment at the facility, as determined by the Secretary of Defense.

''(3) MILITARY DEPENDENT STUDENTS.—The term 'military dependent students' means students who are dependents of members of the armed forces or Department of Defense civilian employees.

''(4) MILITARY INSTALLATION.—The term 'military installation' has the meaning given that term in section 2687(e) of this title.''.

(b) AMENDMENTS TO CHAPTER HEADING AND TABLES OF CONTENTS.—(1) The heading of chapter 111 of title 10, United States Code, is amended to read as follows:

''CHAPTER 111—SUPPORT OF EDUCATION''.

(2) The table of sections at the beginning of such chapter is amended by striking the item relating to section 2199 and inserting the following new items:

''2199. Quality of life education facilities grants.

''2199a. Definitions.''.

(3) The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of such title are amended by striking the item relating to chapter 111 and inserting the following:

''111. Support of Education ..... 2191''.

(c) FUNDING FOR FISCAL YEAR 2001.—Amounts appropriated in the Department of Defense Appropriations Act, 2001, under the heading ''QUALITY OF LIFE ENHANCEMENTS, DEFENSE'' may be used by the Secretary of Defense to make grants under section 2199 of title 10, United States Code, as added by subsection (a).

AMENDMENT NO. 3734

(Purpose: To postpone implementation of the Defense Joint Accounting System (DJAS) pending an analysis of the system)

On page 123, between lines 12 and 13, insert the following:

SEC. 377. POSTPONEMENT OF IMPLEMENTATION OF DEFENSE JOINT ACCOUNTING SYSTEM (DJAS) PENDING ANALYSIS OF THE SYSTEM.

(a) POSTPONEMENT.—The Secretary of Defense may not grant a Milestone III decision for the Defense Joint Accounting System (DJAS) until the Secretary—

(1) conducts, with the participation of the Inspector General of the Department of Defense and the inspectors general of the military departments, an analysis of alternatives to the system to determine whether the system warrants deployment; and

(2) if the Secretary determines that the system warrants deployment, submits to the congressional defense committees a report certifying that the system meets Milestone I and Milestone II requirements and applicable requirements of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106).

(b) DEADLINE FOR REPORT.—The report referred to in subsection (a)(2) shall be submitted, if at all, not later than March 30, 2001.

AMENDMENT NO. 3737

(Purpose: To repeal the prohibition on use of Department of Defense funds for the procurement of a nuclear-capable shipyard crane from a foreign source)

On page 32, after line 24, add the following:

SEC. 142. REPEAL OF PROHIBITION ON USE OF DEPARTMENT OF DEFENSE FUNDS FOR PROCUREMENT OF NUCLEAR-CAPABLE SHIPYARD CRANE FROM A FOREIGN SOURCE.

Section 8093 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1253) is amended by striking subsection (d), relating to a prohibition on the use of Department of Defense funds to procure a nuclear-capable shipyard crane from a foreign source.

AMENDMENT NO. 3762, AS MODIFIED

(Purpose: To provide for the humane administration of Department of Defense secrecy oaths and policies, consistent with national security needs, where workers and communities at nuclear weapons facilities may have had their health compromised by exposure to radioactive and other hazardous substances)

On page 415; between lines 2 and 3, insert the following:

SEC. 1061. SECRECY POLICIES AND WORKER HEALTH.

(a) REVIEW OF SECRECY POLICIES.—The Secretary of Defense in consultation with the Secretary of Energy shall review classification and security policies and; within appropriate national security constraints, ensure that such policies do not prevent or discourage employees at former nuclear weapons facilities who may have been exposed to radioactive or other hazardous substances associated with nuclear weapons from discussing such exposures with appropriate health care providers and with other appropriate officials. The policies reviewed should include the policy to neither confirm nor deny the presence of nuclear weapons as it is applied to former U.S. nuclear weapons facilities that no longer contain nuclear weapons or materials.

(c) NOTIFICATION OF AFFECTED EMPLOYEES.—(1) The Secretary of Defense in consultation with the Secretary of Energy shall seek to identify individuals who are or were employed at Department of Defense sites that no longer store, assemble, disassemble, or maintain nuclear weapons.

(2) Upon determination that such employees may have been exposed to radioactive or hazardous substances associated with nuclear weapons at such sites, such employees shall be notified of any such exposures to radiation, or hazardous substances associated with nuclear weapons.

(3) Such notification shall include an explanation of how such employees can discuss any such exposures with health care providers who do not possess security clearances without violating security or classification procedures or, if necessary, provide guidance to facilitate the ability of such individuals to contact health care providers with appropriate security clearances or discuss such exposures with other officials who are determined by the Secretary of Defense to be appropriate.

(d) The Secretary of Defense in consultation with the Secretary of Energy shall, no later than May 1, 2001, submit a report to the Congressional Defense Committees setting forth:

(1) the results of the review in paragraph (a) including any changes made or recommendations for legislation; and

(2) the status of the notification in paragraph (b) and an anticipated date on which such notification will be completed.

AMENDMENT NO. 3733

Mrs. HUTCHISON. Mr. President, I am deeply concerned about the condition of the classrooms within our military dependent schools. A number of our classrooms contain asbestos, roofs leak, classes are overcrowded, three or four teachers have to share the same desk, science labs are 30 plus years old and potentially unsafe, and some schools are not in compliance with the American with Disabilities Act.

I am ashamed that military families who live on base are forced to send their kids to school facilities in these conditions. I was even more disturbed when I found out the many other

school districts that teach large numbers of military dependents have similar infrastructure problems.

Amazingly most kids have done well despite this environment but I worry about the impact the deteriorating school facilities has on declining military retention and recruitment. The condition of these schools is clearly a quality of life issue for military families.

Mr. President, I offer an amendment today to help alleviate these problems and ensure a safe and comfortable learning environment for more than 80,000 children of members of our armed forces.

My amendment establishes a grant program within the Department of Defense to assist school districts with repair and renovation costs for facilities used to educate large numbers of military kids. The program would enable qualified school districts to apply for grants up to $5 million every two years to help meet health and safety, class size, ADA, asbestos removal, and technology requirements.

The program would also assist school districts faced with significant enrollment increases due to increases in on-base housing or mission changes. Lastly, school districts could seek assistance for repair and renovation costs of Department of Defense owned schools being transferred to a local school district.

For example, at Robins Air Force Base in Georgia a DOD owned elementary school is being transferred to the local school district but $4 million in repairs is needed to bring the school up to the local district's safety and fire standards.

Why is Department of Defense assistance needed? Most of the school districts serving large numbers of military children have limited bonding ability or no tax base to raise the necessary capital funding.

For example, seven public schools districts that serve military dependents are located solely on the military installation and in turn have no tax base or bonding authority. The seven schools rely on impact aid and state funding and almost all repair or renovation expenditures come at the expense of instructional funding.

The Department of Education is authorized to provide construction funding for impacted schools but only $10 million is provided for hundreds of impacted schools nationwide. An additional $5 million is available for school facilities owned by the Department of Education but the needs of those schools far exceed the available funding.

The Department of Education has essentially abdicated its responsibility to ensure a safe and comfortable learning environment at federally impacted schools. We often hear of the need for more federal dollars for school construction but who deserves this more than the children whose parents serve in our armed forces.

Schools that teach large numbers of military dependents receive supplemental impact aid assistance through the Department of Defense, $30 million in FY 2000 benefitting about 130 schools. However, the funding is not sufficient to meet major repair and renovation costs.

A comprehensive program is needed to address this serious quality of life issue. And, without Department of Defense assistance tens of thousands of military children will continue to learn in inadequate and unsafe facilities.

This amendment would benefit the 30 most heavily impacted school districts that teach military children.

Mr. President, I urge my colleagues to support this important quality of life issue that will benefit more than 80,000 military children.

AMENDMENT NO. 3762, AS MODIFIED

Mr. HARKIN. Mr. President, I have an amendment to correct an absurdity in our application of important secrecy policies. This issue would be a laughable example of bureaucratic intransigence except that it is harming workers who may have gotten sick from working on our nuclear weapons.

I'm sure that by now all my colleagues are aware that many of our citizens were exposed to radioactive and other hazardous materials at nuclear weapons production plants in the United States. While working to protect our national security, workers at places like Paducah, Kentucky, Portsmouth, Ohio, and Oak Ridge, Tennessee were subjected to severe hazards, sometimes without their knowledge or consent. We recently passed an amendment to provide compensation to some of those who became seriously ill because of their dangerous work at nuclear weapons plants.

The dangers at these plants thrived in the darkness of government secrecy. Public oversight was especially weak at a factory for assembling and disassembling nuclear weapons at the Iowa Army Ammunition Plant in Middletown, Iowa. I first found out about the nuclear weapons work there from a constituent letter from a former worker, Robert Anderson. He was concerned that his non-Hodgkins lymphoma was caused by exposures at the plant. But when I asked the Department of Energy about the plant, at first they denied that any nuclear weapons work took place there. The constituent's story was only confirmed when my staff saw a promotional video from the contractor at the site that mentioned the nuclear weapons work.

The nuclear weapons production plants were run not by the Defense Department but by the Atomic Energy Commission, which has since been made part of the Department of Energy. The Department of Energy has since acknowledged what happened, and is now actively trying to help the current and former workers in Iowa and elsewhere by reviewing records, helping them get medical testing and care, and seeking compensation. I was pleased this past January to host Energy Secretary Richardson at a meeting with former workers and community members near the plant. The Department specifically acknowledges that the Iowa Army Ammunition Plant assembled and disassembled nuclear weapons from 1947–1975. And their work has helped uncover potential health concerns at the plant, such as explosions around depleted uranium that created clouds of radioactive dust, and workers' exposure to high explosives that literally turned their skin yellow.

But at the Iowa nuclear weapons plant the Defense Department was inseparably intertwined with the AEC. The AEC operations were located on the site of an Army ammunition plant. The workers at both sides of the plant actually worked for the same contractor, workers often switched between the plant parts, and workers on both sides of the plant were even exposed to many of the same hazardous materials, including beryllium and depleted uranium. Thus former workers at the plant do not always clearly distinguish the Army from the AEC.

And while the Department of Energy is investigating what happened and seeking solutions, the Army is stuck, still mired in a nonsensical policy. It is the policy of the Department of Defense to ''neither confirm nor deny'' the presence of nuclear weapons at any place at any time. They could not admit that nuclear weapons were assembled in Iowa without admitting that there were nuclear weapons in Iowa. So they write vaguely about ''AEC activities,'' but don't say what those activities were.

There have been no nuclear weapons at the Iowa site since 1975, but it's well known that weapons were there before that. The DOE says the weapons were there. A promotional video of the Army contractor at the site even says the weapons were there. But the Army can't say it. This makes the Army look ridiculous.

But worse, it sends the wrong signal to the former workers. These workers swore oaths never to reveal what they did at the plant. And many of them are still reluctant to talk. They are worried that their cancers or other health problems were caused by their work at the plant. But they feel that they can't even tell their doctors or site cleanup crews about the materials they worked with or the tasks they did. They don't want to violate the oaths of secrecy they took. One worker at the Iowa plant said recently, ''There's still stuff buried out there that we don't know where it is. And we know people who do know, but they will not say anything yet because they are still afraid of repercussions.'' Instead of helping those workers speak out, the Army is forced to share their silence.

And Mr. President, to make the position even more indefensible for my workers in Iowa, the Pentagon is not even consistently applying the ''neither confirm nor deny,'' or ''NCND,''

policy. A document recently released by the Pentagon stated that the U.S. had nuclear weapons in Alaska, Cuba, Guam, Hawaii, the Johnston Islands, Midway, Puerto Rico, the United Kingdom, and West Germany. After the document was released, a Department spokesman said on television that the U.S. never had nuclear weapons in Iceland. Why can the Pentagon talk about nuclear weapons in Iceland but not in Iowa?

Mr. President, for the health of our workers, it's time for the Pentagon to come clean. No one is more concerned with keeping real nuclear secrets than I am. But the Pentagon must not hide behind inconsistent policies when workers' lives may be at risk.

This amendment is narrowly targeted to require the Defense Department and Energy Department to review their classification and secrecy policies and change them if they prevent or discourage workers at nuclear weapons facilities from discussing possible exposures with their health care providers. The amendment specifically recognizes that this must be done within national security constraints. It also directs the Departments to contact people who may have been exposed to radioactive or hazardous substances at former nuclear weapons facilities, including the Iowa plant. The Department is to notify them of any exposures and of how they can discuss the exposures with their health care providers and other appropriate officials without violating secrecy oaths or policies.

I hope all my colleagues will support this common-sense change for government consistency and worker health.

AMENDMENTS NOS. 3816 AND 3817

Mr. WARNER. Mr. President, I send two amendments to the desk which have been cleared by myself and the ranking member. Therefore, I ask unanimous consent that the Senate consider these amendments en bloc, they be agreed to, and the motions to reconsider laid upon the table. Finally, I ask that any statements relating to any of the individual amendments be printed at the appropriate place in the RECORD.

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

The amendments (Nos. 3816 and 3817) were agreed to, as follows:

AMENDMENT NO. 3816

(Purpose: To streamline the requirements for procurement notice when access to notice is provided electronically through the single Governmentwide point of access designated in the Federal Acquisition Regulation)

On page 303, between lines 6 and 7, insert the following:

SEC. 814. PROCUREMENT NOTICE THROUGH ELECTRONIC ACCESS TO CONTRACTING OPPORTUNITIES.

(a) PUBLICATION BY ELECTRONIC ACCESSIBILITY.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1)(A), by striking ''furnish for publication by the Secretary of Commerce'' and inserting ''publish'';

(2) by striking paragraph (2) and inserting the following:

''(2)(A) A notice of solicitation required to be published under paragraph (1) may be published by means of—

''(i) electronic accessibility that meets the requirements of paragraph (7); or

''(ii) publication in the Commerce Business Daily.

''(B) The Secretary of Commerce shall promptly publish in the Commerce Business Daily each notice or announcement received under this subsection for publication by that means.''; and

(3) by adding at the end the following:

''(7) A publication of a notice of solicitation by means of electronic accessibility meets the requirements of this paragraph for electronic accessibility if the notice is electronically accessible in a form that allows convenient and universal user access through the single Government-wide point of entry designated in the Federal Acquisition Regulation.''.

(b) WAITING PERIOD FOR ISSUANCE OF SOLICITATION.—Paragraph (3) of such subsection is amended—

(1) in the matter preceding subparagraph (A), by striking ''furnish a notice to the Secretary of Commerce'' and inserting ''publish a notice of solicitation''; and

(2) in subparagraph (A), by striking ''by the Secretary of Commerce''.

(c) CONFORMING AMENDMENTS FOR SMALL BUSINESS ACT.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(1) in paragraph (1)(A), by striking ''furnish for publication by the Secretary of Commerce'' and inserting ''publish'';

(2) by striking paragraph (2) and inserting the following:

''(2)(A) A notice of solicitation required to be published under paragraph (1) may be published by means of—

''(i) electronic accessibility that meets the requirements of section 18(a)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(7)); or

''(ii) publication in the Commerce Business Daily.

''(B) The Secretary of Commerce shall promptly publish in the Commerce Business Daily each notice or announcement received under this subsection for publication by that means.''; and

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''furnish a notice to the Secretary of Commerce'' and inserting ''publish a notice of solicitation''; and

(B) in subparagraph (A), by striking ''by the Secretary of Commerce''.

(d) PERIODIC REPORTS ON IMPLEMENTATION OF ELECTRONIC COMMERCE IN FEDERAL PROCUREMENT.—Section 30(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 426(e)) is amended—

(1) in the first sentence, by striking ''Not later than March 1, 1998, and every year afterward through 2003'' and inserting ''Not later than March 1 of each even-numbered year through 2004''; and

(2) in paragraph (4)—

(A) by striking ''Beginning with the report submitted on March 1, 1999,''; and

(B) by striking ''calendar year'' and inserting ''two fiscal years''.

(e) EFFECTIVE DATE AND APPLICABILITY.—This section and the amendments made by this section shall take effect on October 1, 2000. The amendments made by subsections (a), (b) and (c) shall apply with respect to solicitations issued on or after that date.

AMENDMENT NO. 3817

(Purpose: To authorize a land conveyance, Mukilteo Tank Farm, Everett, Washington)

On page 543, strike line 20 and insert the following:

Part III—Air Force Conveyances

SEC. 2861. LAND CONVEYANCE, MUKILTEO TANK FARM, EVERETT, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Port of Everett, Washington (in this section referred to as the ''Port''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 22 acres and known as the Mukilteo Tank Farm for the purposes of permitting the Port to use the parcel for the development and operation of a port facility and for other public purposes.

(b) PERSONAL PROPERTY.—The Secretary of the Air Force may include as part of the conveyance authorized by subsection (a) any personal property at the Mukilteo Tank Farm that is excess to the needs of the Air Force if the Secretary of Transportation determines that such personal property is appropriate for the development or operation of the Mukilteo Tank Farm as a port facility.

(c) INTERIM LEASE.—(1) Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary of the Air Force may lease all or part of the real property to the Port if the Secretary determines that the real property is suitable for lease and the lease of the property under this subsection will not interfere with any environmental remediation activities or schedules under applicable law or agreements.

(2) The determination under paragraph (1) whether the lease of the real property will interfere with environmental remediation activities or schedules referred to in that paragraph shall be based upon an environmental baseline survey conducted in accordance with applicable Air Force regulations and policy.

(3) Except as provided by paragraph (4), as consideration for the lease under this subsection, the Port shall pay the Secretary an amount equal to the fair market of the lease, as determined by the Secretary.

(4) The amount of consideration paid by the Port for the lease under this subsection may be an amount, as determined by the Secretary, less than the fair market value of the lease if the Secretary determines that—

(A) the public interest will be served by an amount of consideration for the lease that is less than the fair market value of the lease; and

(B) payment of an amount equal to the fair market value of the lease is unobtainable.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Port.

(e) ADDITIONAL TERMS.—The Secretary of the Air Force, in consultation with the Secretary of Transportation, may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary of the Air Force considers appropriate to protect the interests of the United States.

Part IV—Defense Agencies Conveyances

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

Mr. DURBIN. Mr. President, for the time allotted in debate in support of the amendment, I would like to yield 10 minutes to the Senator from Minnesota, Senator WELLSTONE.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President. I am very proud to have worked with Senator DURBIN to be a cosponsor and have Senator KERRY here on the floor as well.

I think this important amendment requiring more realistic testing of the national missile system is an extremely important step for us to take. First of all, it requires more realistic testing. Second, it calls for the reconvening of the Welch commission to independently evaluate the testing program. Third, it requires a report to the Congress on the adequacy of the program.

This is the fourth time since the late fifties that we have talked about a missile defense program. Each time there is a tremendous amount of enthusiasm. Then scientists and independent observers do a careful analysis. After that, the enthusiasm wanes. I do not believe this time will be any different.

I am sure every Senator read on Sunday morning that this past Saturday's test was an utter failure. What you may not know is that an earlier test was unsuccessful as well. But regardless of the actual successes and failures of the tests, the fact is, the current testing program does not test the feasibility of the system in the real world. Current testing determines whether or not the system works against cooperative targets on a test range. This methodology is insufficient to determine the technological feasibility of the system against likely threats. At present, even if the tests had been hailed as total successes, they would have proved nothing more than the system is unproven against real threats. At present, we know that this system might work if the other side is not making it hard to detect its weapons. This hardly seems a reason to move forward to deployment.

Some might argue that this amendment demands too much. Some might argue that today's testing program is a first step in a long process towards full deployment. But demanding an adequate testing program, which is what this amendment calls for, certainly does not put the bar too far. It sets it where any reasonable person or scientist would put it. We must stick to development and work within the confines of a realistic test before even considering moving to deployment.

The aim of the national missile defense is to defend the United States from limited attacks by intercontinental-range ballistic missiles armed with nuclear, chemical, or biological weapons. However, biological or chemical weapons can be divided into many small warheads called submunitions. These submunitions could overwhelm the planned defense, and more importantly, because some munitions allow for more effective dispersal of biological and chemical agents, an attacker would have a strong incentive to use them even in the absence of missile defenses. When it comes to biological warfare and these biological and chemical agents, the greater likelihood is that they will be carried by suitcase into this country. I pray that doesn't happen.

Current testing does not take countermeasures into account. An attack could overwhelm the system by using something as simple as ballooned decoys, for example, by deploying nuclear weapons inside balloons and releasing numerous empty balloons along with them. Or an attacker could cover its nuclear warheads with cooled shrouds which would prevent the interceptor from detecting it. We are talking about testing which takes into account these countermeasures. That is what we would have to deal with.

Current testing does not take these countermeasures into account. The Pentagon assessment will consider only whether the first phase of the system would be effective against a threat with no credible countermeasures. It will not consider whether the full system would be effective against a threat with realistic countermeasures. Any decision on whether or not the United States should deploy a national missile defense should take into account how effective that system is likely to be in the real world, not just whether or not it works against cooperative targets on a test range.

Unfortunately, the technological feasibility of the proposed national defense system, which will be determined in the Pentagon's upcoming deployment readiness review, will be assessed precisely on the basis of such test results. Even worse, it will be based upon only a few tests.

The administration requested that the Pentagon provide an estimate of whether a national missile defense can be deployed in 5 year's time. General Kadish, the head of the Pentagon's ballistic missile defense program, has described the 2005 timetable as ''high risk.'' He has made it clear that the timetable is much faster than military planners would like. The recommendation of the Pentagon's own Office of the Operational and Test Evaluation Program stated clearly that the deployment readiness review ''is a strongly 'schedule driven' approach'' rather than one based upon results.

Is it too much to ask that we be certain that this system works before we move ahead with deployment?

That is what this amendment is about.

If the proposed national missile defense system is to have any possibility of enhancing U.S. security, it must work, and it must work well. At present, the evidence isn't there to prove that it does, and the tests underway to establish that proof are simplified and unrealistic. We must demand that any deployment decision on national missile defense be postponed until the system has been tested successfully against real-world realistic threats.

Last year, I voted against a resolution urging the administration to make a decision to deploy a national missile defense system. I believed then, as I do now, that a decision to deploy before a decision is made there needs to be a careful evaluation of the effectiveness of the system.

I also believe that we need to look at this in the context of overall U.S. security needs. The goal should be to increase U.S. security—not to undermine it. Deploying a system now, I fear, does the opposite. It threatens to disrupt the current arms control regimen and undermine the credibility of our commitment to nonproliferation.

Deployment of a national missile defense system would be a violation of the ABM Treaty. Are we prepared to discard this arms control regimen? I worry—and I think every Senator, Democrat and Republican alike, worries—about proliferation of these weapons of mass destruction. If this regimen of arms control breaks down with Russia—and, perhaps even more importantly, breaks down with China, then there is India, then there is Pakistan, then there is South Korea, then there is Japan—I fear the direction in which we are moving.

Colleagues, for 40 years the United States of America has led international efforts to reduce and contain the danger from nuclear weapons. We must not now renounce the responsibilities of that leadership with a hasty and shortsighted decision that will have lasting consequences. We must answer a number of questions before we proceed:

Does it make sense to unilaterally deploy a system now if the result might be to put the American people at even greater risk?

Should we take the time to work with allies and others to find a mutually acceptable nonthreatening way of proceeding?

Have the threats to which we are responding been exaggerated and more driven by politics than accurate threat assessments and hard science?

Is the technology there to deploy a system that would actually work in the real world?

This amendment speaks directly to that last question.

I urge my colleagues to demand to know more about the complexities of a national missile defense system prior to deploying that system. I don't think that is an unreasonable request.

The failure of Saturday's test is only a fraction of the real story. Even a successful test would prove nothing given the current testing conditions.

I urge my colleagues to support this amendment requiring a more realistic testing of the national missile defense system, reconvening the Welch panel to independently evaluate a testing program, and requiring a report to the Congress on the adequacy of the program.

We should not commit ourselves blindly to a program that can cost billions of dollars and could very well decrease our overall security rather than

to enhance it. Our future and our children's children's future could depend on the decision we make on this amendment. Let's do the right thing. I hope we can have a strong vote on this amendment.

Mr. WARNER. Mr. President, I ask my colleague a question and the time allocated to the Senator from Virginia be charged for the portion of the colloquy I use.

The Senator makes a fairly strong statement indirectly at our former colleague, Senator Cohen, now Secretary of Defense, that he would proceed blindly on this program which is so vital to the security of the United States, assuming, as you say, under the full criteria that the President addressed goes forward—that he would go blindly. Is that a purposeful choice of words directed at this distinguished former colleague who, in my judgment, having been on the Armed Services Committee 22 years and having served 18 or 19 of those years with him, I cannot imagine undertaking the responsibility to oversee a program of this importance and proceeding, as the Senator said, ''blindly.''

Mr. WELLSTONE. Mr. President, I say to my colleague I can't imagine the Secretary of Defense doing that, either. My plea was to Senators. I said we must not proceed blindly and I urge all Members to understand the complexity of this testing and to at least call for a thorough evaluation to make sure that this system will really work. My comments were not directed to Secretary Cohen.

I also say to my colleague, I don't believe the Secretary of Defense has made a final recommendation to the President.

Mr. WARNER. I certainly agree.

Mr. WELLSTONE. In light of the failure of this past week, I don't know what the Secretary's decision will be.

I think all Members are just making the reasonable request that before we go forward with deployment, let's have the kind of operational testing that will prove that this system will work in the real world against credible threats, and let's have an independent evaluation by the Welch commission and have at least a report to the Congress.

That is what I am referring to, I say to my colleague from Virginia. I am glad he asked the question. In no way would I direct these comments toward the Secretary of Defense.

Mr. WARNER. I have to say with all due respect to our three colleagues, opponents on this amendment, indirectly this amendment is suggesting that the Department is not proceeding in a prudent way towards their responsibilities on this program. I have to state that.

I do not find any specific fault with some of the requests made but momentarily when I take the floor in my own right, I will have documentation to show that the Welch panel is doing the very things for which the Senator asked. I will point to the fact that the Secretary of Defense has said in previous testimony what he is doing on this program. In fact, I say to the Presiding Officer, being a member of the Armed Services Committee and indeed the chairman of the strategic subcommittee, I asked the Secretary of Defense to come up at his earliest opportunity and report to the Committee on Armed Services. He has agreed to do so shortly after his return from his trip currently in Asia. I thought he addressed the test program, which did, regrettably, end in a failure, I thought in a very courageous and forthright way he addressed that failure to the American public and, indeed, the world.

Mr. WELLSTONE. I probably need not respond. I appreciate my colleague's comments.

One final comment in response to his comments. One of the things I have liked best about preparing for this amendment for me as a Senator has been the way I imagined Senate work to be. I tried to immerse myself on this issue and get the best security briefings from the Pentagon, get other briefings from other people in the Pentagon, and talked to a whole range of experts. The Welch Commission report is a very interesting report.

This amendment certainly says we need to make absolutely sure that we are involved in the kind of testing that will show this system will work before we move forward. That is true. That is certainly the premise of this amendment. I think this is a reasonable premise. Senators ought to raise these kinds of questions. That is why we are here. That is why I think this amendment is important.

Mr. WARNER. The Welch panel was before the Armed Services Committee just last week and testified.

Mr. KERRY. Will the Senator yield?

Mr. WARNER. Yes.

Mr. KERRY. It is my understanding, and I ask the Senator from Virginia, that the testing that has been laid out in the protocols that I have seen contemplates testing almost exclusively from off the coast of California and Kwajalein Island, which by their own admission, the military has said are less than ideal in representing the multiple different sources from which a legitimate attack could come.

There is nothing in any protocol that I have seen to date suggesting that the testing that will take place meets the kind of testing that the Senator from Illinois is looking for.

Mr. WARNER. Mr. President, I will look into that. I recognize the military had indicated that this perhaps doesn't give them the diversity of tests they desire.

Certainly, I am interested in the comment that this Nation is faced with a multiple of sources, and that confirms my concern about the overall threat posed to this Nation by the rogue or accidental firing of a missile. That is why we need this national missile defense program.

Mr. KERRY. If the Senator will yield further for a question, when we talk about multiple sources, it is possible for a so-called rogue state—and the term itself is one that is perhaps questionable today, but the so-called rogue state could take a rusty tanker, fit it out with the capacity to shoot, drive it out of a harbor to almost any location in an ocean in the world, and decide to shoot from there. Is that accurate?

Mr. WARNER. The Senator is correct.

Mr. KERRY. If we are strictly testing between one location, one direction, and our radar system is specifically positioned to anticipate an attack from a certain location, if that were to be the case, we would face a completely different situation, would we not?

Mr. WARNER. The Senator is correct. There is a diversity of scenarios we have to protect this Nation against. This test program was designed in large measure to prioritize those sources from whence an attack might emanate.

Mr. KERRY. Finally, I ask the Senator, the entire program is currently driven by a date essentially arrived at by the national intelligence estimate, that suggested that 2005 is the first date there might be a possibility of a missile being fired; is that correct?

Mr. WARNER. That is correct, as a result of the national intelligence estimate.

Mr. LEVIN. If the Senator will yield.

Mr. KERRY. We are on the time of the Senator from Virginia or I wouldn't be doing this.

Mr. WARNER. Let's make it clear. I think in my request I said the time that I consumed would be chargeable to my side.

Mr. KERRY. I thought it was the entire colloquy.

The PRESIDING OFFICER (Mr. ALLARD). That was the exchange with the Senator from Minnesota. The Senator has been yielding for questions on his time.

Mr. WARNER. Let's make it clear for purposes of future colloquies. The time consumed by Mr. LEVIN and myself will be charged to our side, and the time for response will be charged to the other side.

Mr. KERRY. With that understanding, I am afraid I have to refrain from this colloquy.

Mr. LEVIN. I say to my good friend from Massachusetts, I happen to agree with his thoughts on this subject. We are very close in terms of our views. However, there is a complete misunderstanding about the year 2005. That is not the year when the intelligence estimates say North Korea will be able to pose a threat to us.

Mr. KERRY. Correct; they can do it today.

Mr. LEVIN. They can do it today. But 2005 is the year which the Secretary of Defense thought at the time he was making an assessment some time ago would be the earliest time that we would be able to field the national missile defense.

So everybody—in the media, on this floor and just about everywhere—has

now taken the common wisdom that the 2005 date is when the national intelligence estimate says the threat will arrive.

That is not what the national intelligence estimate is. The threat is any time when a three-stage Taepo Dong II could deliver a several-hundred-kilogram payload anywhere in the United States. And that day is when they next test it.

With the general point my good friend from Massachusetts is making, I happen to agree with what he is saying. I certainly support the good Senator from Illinois on his amendment, but I think we ought to try to change the wisdom which has evolved around that date or the assumption or the press coverage of that date.

Everybody uses that date for the wrong reason. Whether it is possible to reverse it, correct it, I don't know. But I think it would help the debate a great deal if we were able to look at that date for what it is, which is the first date that the Secretary of Defense thought, at the time he made the assessment some months ago, that a national missile defense could possibly be deployed.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask for a clarification now of the time that has been allocated to each side and how much is remaining. I have requests from several of my colleagues, and I want to give them all a chance.

The PRESIDING OFFICER. The Senator from Virginia has 51 minutes, 41 seconds. The Senator from Illinois has 44 minutes, 43 seconds.

Mr. DURBIN. I yield 10 minutes to the Senator from Massachusetts, Mr. KERRY.

Mr. KERRY. Mr. President, I thank the distinguished Senator from Illinois for his leadership, and I thank also the Senator from Minnesota for his common sense, leadership, and eloquence on it.

This is really a matter of—I guess the best word to summarize it—common sense. My prayer is that we in the Senate are not going to become prisoners of politics on an issue that is as critical to the national security interests of our country—indeed, of the world. This is the most important arms decision we will make in years. I am not going to get into the comparisons of when the last one was, but certainly in the last 10 or 15 years. I think what the Senator from Illinois is asking for ought to fit into the political philosophy of every single member of the Republican Party. I would have hoped the Senator, the distinguished chairman of the Armed Services Committee, would say we should accept this amendment. How is it that we could be talking about deploying a weapons system?

Mr. WARNER. What did the Senator say?

Mr. KERRY. I said to the distinguished chairman of the committee, I don't understand why he would not want to accept this, because, as a matter of common sense, every Member of the Senate ought to be interested in knowing that if we are going to spend $10 billion, $20 billion, $40 billion, $60 billion, $100 billion to create a weapons system, a defensive or offensive system, we ought to know that it works. We ought to know it can accomplish its goal.

Some of the best scientists in the United States of America are not politicians. They do not come at this as Republicans and Democrats, conservatives and liberals. They are scientists. They win Nobel Prizes for their science. They go to MIT, Stanford, New York University, all over this country.

Mr. WARNER. Will the Senator yield for a moment?

Mr. KERRY. We have a limited time.

Mr. WARNER. You asked me a question.

Mr. KERRY. If we can do it on the Senator's time?

Mr. WARNER. Of course. You asked if I would accept it, as chairman of the committee, one of the managers. The answer is yes. I think our distinguished colleague from Illinois knows that. We have said to him three times: We accept the amendment. Am I not correct? Let the RECORD indicate he is nodding assent to the question. The Senator from Michigan has urged him we would accept it.

So rally on, dear colleague. We will listen to you. I don't mean to deflate your argument as to why we would not do it, because we have offered to do it.

Mr. KERRY. This is the most welcome acceptance of the power of my argument I have ever had on the floor of the Senate. I thank the distinguished chairman. But I am confident what the Senator from Illinois wanted to do—and I share this belief—was to have the Senate talk about this. I think we ought to talk about this. So I do not think taking 1 hour to discuss something which hopefully will pass overwhelmingly, or that we then accept, is inappropriate. I think we need to think about this.

Mr. WARNER. No one is suggesting that.

Mr. KERRY. We face a situation where we are talking about putting together a system that the best scientists in the world tell us could literally be rendered absolutely inoperative, if it is simply deployed; all you have to do is put the system out there, and you have the ability to create decoys with fairly unsophisticated technology. In fact, General Welch himself has said in his report, and he said it before the Armed Services Committee the other day, that they anticipate the C–1 deployment, which is the deployment currently contemplated, with countermeasures by year 2005, is a deployment in which they anticipate current technology, current state-of-the-art technology, has the ability to deploy countermeasures.

They say you could have bomblets. After the stage separates in outer space and it is in that midstage, you could have bomblets, up to 100 of them, released from 1 single warhead. Strictly speaking, that is not a countermeasure because it is not directed at the entire system. But it is a countermeasure in that it voids the effectiveness of the system or the capacity of the system to work effectively.

I ask my colleagues to look around the wall of this Chamber. I counted earlier, in the great amount of time we had to wait for this debate, 88 lights up there on the outer section. That is fewer than 100 of these bomblets. I ask you to just look at those. We are supposed to talk about a system that would be effective enough to destroy bombs coming at us from outer space, at a spacing far greater than any of those lights, at tens of hundreds of miles an hour, with the capacity to distinguish and break through every single one of them to prevent a chemical weapon or biological weapon, that could be completely lethal to the entire city of New York, Los Angeles, to a whole State, from hitting this country.

Does anybody here really believe we are going to be able to go down that kind of sophisticated, discriminative capacity? Some say maybe we might get there in 10 years, 20 years, 30 years; that we might have that ability if everything worked correctly. Maybe we can develop that kind of system ultimately. But at what cost? Then the question is, What is the next tier of countermeasure that defeats whatever it is we did to defeat their countermeasure?

People sit here and say: Don't worry about that, Senator; we are just going to have a technological superiority.

All you have to do is go back to the cold war, 50 years of point-counterpoint; step-counterstep. We do the atom bomb; they do the atom bomb. We do the hydrogen bomb; they do the hydrogen bomb. We put them on long-range aircraft; they put them on long-range aircraft. We MIRV; they MIRV. They do Sputnik; we do Sputnik.

Out of all of the measures through the entire cold war, the United States of America was the first to do them almost every single time. I think the record is all but once and maybe twice. Every single time we did it, it may have taken them 5 years, it may have taken them 7 years, but they did it. And finally we decided that we were safer by passing the ABM Treaty and beginning to move in the opposite direction, first with SALT and then with START.

Now all we are asking in this amendment is let's be certain, before we spend these billions of dollars. I happen to support this. I want to be very clear about this. I support the notion of developing a limited, capable, mutually deployed system for national defense that could, indeed, strike down a potential rogue missile or accidental firing. No leader of the United States could responsibly suggest we are going

to write off an entire city or State, or half our country. Of course we have an obligation to go down that road, but we have an equal obligation to do it in a way that does not wind up upsetting the entire balance of the arms race, or our current process of diminishing arms, that does not tell all our allies the United States is going to break out, at some point, of their regime at our own will; that we have not established a sufficient level of scrutiny, of transparency, of mutuality, that brings people along with us so they understand where we are going.

I say to my friend, I am all for continuing as rapidly as we can the technological development, the research, the capacity to do this, but don't we want to do it in a way that guarantees we have a system that can do what it sets out to do without inviting a set of unintended consequences that actually wind up making the world not as safe as we were when we began the process? That is all we are asking.

I can envision a world where the Russians and the Chinese and others decide we are all safer if we have a capacity to prevent a terrorist from firing some kind of missile from anywhere, but we are only safer if other countries move along with us and perceive that they are sharing in that safety and that, somehow, it is not a new measure directed by the United States against their current level of perceived security or threat level.

All of this is an ongoing process of perceptions: How they perceive us; how we perceive them. It is important to be sensitive to those perceptions.

I believe what the amendment of the Senator from Illinois will do will actually build on General Welch's recommendations. It will explicitly set out what the BMDO should do. It will require ground and flight testing that will make the system safer and better. It will ultimately guarantee us that we will get the kind of system we want.

General Welch says he intends for the independent review team to address these countermeasure issues. It seems to me what the Senator from Illinois is doing is guaranteeing that the Congress is going on record, just as we did in saying we think we ought to pursue this, just as we did in suggesting that there are certain threshold levels that we ought to respond to with respect to our intelligence.

My final comment is, picking up where the Senator from Michigan closed, the 2005 deadline is exactly what the Senator from Michigan defined it as. It is, in effect, an out-of-the-sky, artificially arrived at deadline. Yet it has been driving this debate and driving the Congress' actions. We have time to pursue this thoughtfully and efficiently. That is what this amendment sets out to do. I congratulate the Senator from Illinois.

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

Mr. WARNER. Mr. President, if I may address my colleague on my time and his reply can be charged to his time, I wish to associate myself with the response of my distinguished colleague from Michigan with regard to 2005. He is absolutely correct. The threat exists today. The warhead content is a different subject for a different time, but it is a part of this equation in calculation of time.

I am pleased the Senator from Massachusetts said on the floor tonight that he supports going forward with the concept of what we call the Cochran bill which was signed by the President of the United States. That is my understanding of what he said. He did vote for it. But he said collectively, we, and he opened his arms. The record also shows that the other two colleagues on this amendment did not vote for the Cochran bill and were two of the three who voted against it. The ''we'' I think we want to make a little clearer.

Here is my problem with this amendment, and I find myself in somewhat of an awkward position. I am defending Bill Cohen, my good friend, the Secretary of Defense of the administration with which my colleagues pride themselves with a long-time association. Fine.

Here is what it says on page 4 of the amendment:

> Independent Review Panel.— (1) The Secretary of Defense shall reconvene the Panel on Reducing Risk in Ballistic Missile Defense Flight Test Program.

There it is, ''shall reconvene.''

Here is the panel to which he was speaking which reported to the Nation on June 13 of this year, and on page 3, General Welch and his colleagues said the following:

> The IRT believes that design discrimination capabilities are adequate to meet the defined C–1 threat. However, more advanced decoy suites are likely to escalate the discrimination challenge. The mid-course phase BMD concept used in the current NMD program has important architectural advantages. At the same time, that concept requires critical attention to potential countermeasure challenges.

Precisely what my colleague from Massachusetts is saying. Let me finish:

> There is extensive potential in the system design to grow discrimination capabilities. The program to more fully understand needs and to exploit and expand this growth potential to meet future threats needs to be well defined, clearly assigned, and funded now.

The concluding sentence:

> A panel of the IRT is continuing work in this area.

When you direct the Secretary of Defense to do something the panel is already doing, I say to my good friends and colleagues, what is this about? That is why we will not accept the amendment. It has some constructive parts to it, but you are directing the Secretary of Defense to do something he is already doing. That is my concern.

Mr. KERRY. If I can answer the distinguished Senator, and I know the Senator from Illinois will talk about it more, the truth is, if you read the Senator's amendment in full, the Senator is very precise about those kinds of tests that he thinks the Congress ought to guarantee take place.

The Secretary of Defense is a friend of mine, too. I went to meet with him 3 weeks ago on this very subject to spend some time talking it through with him, but I find nothing inappropriate, nor do I think he would as a former Member of this Chamber, in this Chamber expressing its will in requiring a certain set of tests with respect to a system.

This is not the first time we will have required the Secretary of Defense to do something. In point of fact, when we pass the DOD authorization bill, we have literally hundreds of directives for the Secretary of Defense with respect to housing, treatment of deployments, recruitments—there are countless numbers of ways we direct him to do things. It is entirely appropriate we direct him——

Mr. WARNER. Mr. President, I agree, but the amendment says clearly you shall do something he is already doing.

Mr. KERRY. I say to my friend from Virginia, I read that report very carefully. There is nothing in it that guarantees to me—there is terminology about further investigation, further evaluation, but that could be on paper; that could be a computer model; that could be in any number of ways that they decide satisfy a fairly strong compulsion, shall we say, within the institution to build.

What we want to guarantee is that compulsion is appropriately measured against a clear empirical standard that we are establishing. I find absolutely nothing inconsistent in that.

Moreover, with respect to the date that is compelling us—I know the chairman of the committee will agree with me on this —the fact is that significant changes have been made in the intelligence estimating process which has also made many people nervous about how people want to push this process a little bit.

The Senator from Michigan talked about the possibility of a missile being fired by North Korea. Until, I think, a year ago or 2 years ago—I will finish very quickly. I am not going to go on long. I want to make this point because it is important.

We used to measure in an intelligence estimate more than mere possibility. We measure intention, and it was only in response to the 1995 Rumsfeld process that suddenly we changed the way we evaluate this. We now no longer contemplate intention; we merely look at possibility. I say to my friend, it may be a possibility that North Korea has one missile that they could fire, but they would have to be beyond insane to do it because they would not last on the face of this planet more than 30 minutes because of our response.

So do they have an intention to do it, particularly when you measure it against the Perry mission, when you

measure it against Kim Dae-jung's recent visit and the entire rapprochement that is currently taking place? Are we to believe this is a legitimate threat we should be responding to with such speed that will not guarantee the kind of testing the Senator from Illinois is asking for?

That is our point. I think this is one where there are suspicions sufficient to raise questions about the guarantees that the testing will be there that we need.

Mr. WARNER. Mr. President, I thank my colleague.

It is important we do have colloquies on this issue. You have hit on a very important point, and that is ''contentious.'' Throughout our long history, through the cold war with the former Soviet Union—indeed, today with Russia—there was always the underlying predicate that the Soviet Union—and now Russia—would handle decision-making as it relates to strategic intercontinental ballistic missiles in a responsible way.

Up until recently, we knew very little about North Korea, we knew very little about the intentions of the deceased leader, and now the new leader. Some ground has been broken. I happen to be on the cautious side.

So let us watch, not just for a month, not just for 2 months, but for over a period of time. It may well be that we can get a different perspective and understanding about the new leadership. But as yet, we cannot, and we have to rely on much in the past.

Mr. KERRY. I thank the Senator from Illinois for his indulgence because he has allowed us to go ahead longer than he gave me. I thank him.

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, what is the status of the time allocation for both sides?

The PRESIDING OFFICER. The Senator from Illinois has 32 minutes 42 seconds; and the Senator from Virginia has 42 minutes 48 seconds.

Mr. DURBIN. I thank the Chair.

Mr. President, I yield myself no more than 3 minutes to make one point.

Let me say, first to the chairman of the committee, who has been kind enough to stay here this evening for this important debate, that I think the level of exchange and dialog here this evening is an indication of the knowledge on the subject of the Members who have stayed and the level of their interest. I hope it adds to the national debate.

I also say to the chairman of the committee, I believe all of us in this Chamber share mutual respect for our current Secretary of Defense. I think he is doing an excellent job. Nothing that any of us have said or will say should bring into question our admiration and respect for his ability and his service to our country.

I also tell my colleagues, I had the good fortune, in preparing for the debate, to go through a classified briefing and also to meet with Director Philip Coyle, who is in charge of Operational Test and Evaluation at the Department of Defense under the leadership of Secretary Cohen.

I asked him to put in common terms, that I can take back to a town meeting in Illinois, what we are talking about when we use the words ''technologically feasible.''

He said: Well, consider it this way. Is it technologically feasible to hit a hole in one in golf? Yes. Is it technologically feasible to hit a hole in one if the hole you are shooting at is moving? Yes, but it is getting a little more difficult. Is it technologically feasible to hit a hole in one if the hole you are shooting at is moving, as is the flag in that hole, and five or six other flags are moving as well, and you are not sure which one is actually the hole you are shooting at? Yes, I suppose that is technologically feasible, but now it is getting to be very difficult.

But it raises the very question of this debate about countermeasures.

I would like to quote and make part of this RECORD a letter that was sent to me on July 11 by Philip Coyle, director of the Office of Operational Test and Evaluation, in which he said:

> This letter is to support your effort to reinforce the need for realistic testing of the National Missile Defense (NMD) system. It is still very early in the developmental testing of NMD. As we move forward, test realism will need to grow with system capability, and it will become more and more important to achieve realistic operational conditions in NMD system tests. This will include realistic countermeasures and engagement conditions.
>
> The very nature of missile defense means that it will not be possible to demonstrate all possible engagements in open air flight intercept tests. Accordingly, it will be necessary to develop realistic ground test simulations including realistic hardware-in-the-loop and scene generation facilities. I especially appreciate your commitment to both ground based and open air flight tests.
>
> If I can provide additional information, please don't hesitate to call me.

I say to the chairman of the committee, it is true that we are giving a directive to the Department of Defense and it is also true that the gentleman in charge of the testing under this program has said to us he believes it is an honest effort to make certain the system works.

Mr. WARNER. Could the distinguished Senator provide us with a copy of that letter?

Mr. DURBIN. I would be happy to.

Mr. WARNER. Perhaps it would be important to put it in the RECORD.

Mr. DURBIN. Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, July 11, 2000.

Hon. RICHARD J. DURBIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DURBIN: This letter is to support your effort to reinforce the need for realistic testing of the National Missile Defense (NMD) system. It is still very early in the developmental testing of NMD. As we move forward, test realism will need to grow with system capability, and it will become more and more important to achieve realistic operational conditions in NMD system tests. This will include realistic countermeasures and engagement conditions.

The very nature of missile defense means that it will not be possible to demonstrate all possible engagements in open air flight intercept tests. Accordingly, it will be necessary to develop realistic ground test simulations, including realistic hardware-in-the-loop and scene generation facilities. I especially appreciate your commitment to both ground based and open air flight tests.

If I can provide additional information, please don't hesitate to call me.

Sincerely,

PHILIP E. COYLE,
Director.

Mr. DURBIN. Mr. President, I yield 6 minutes to the Democratic leader on our Armed Services Committee, Senator LEVIN of Michigan.

Mr. LEVIN. Mr. President, first, I commend the Senator from Illinois for this amendment. It is a very important amendment. It really shows congressional interest in an area which is going to require a great deal of attention. That is the statement of General Welch himself, which my good friend from Virginia just read.

I want to reread one of the lines in the Welch report, which is that: ''more advanced decoy suites are likely to escalate the discrimination challenge. The mid-course phase BMD concept used in the current national missile defense program has important architectural advantages. At the same time, that concept requires critical attention to potential countermeasure challenges.''

The countermeasures issue requires critical attention.

What the Senator from Illinois is saying is that the Congress should pay some attention to this, not just the executive branch. I have no doubt, and my good friend from Virginia has no doubt, Secretary Cohen will pay attention to this. We do not know if the next Secretary of Defense will be as interested in this issue—we hope he will be—as this Secretary.

But the fact that the executive branch is doing something has never prevented the Congress from putting something into law. We have had Presidents who have had Executive orders that we agree with, that we repeat in law. Why would we hesitate to simply express our own view, show congressional interest, and reinforce something which hopefully the Defense Department will continue to do? So it is not unusual for us to direct something. I think we ought to adopt this amendment overwhelmingly.

This is a very complicated system. The Senator from Virginia pointed out that a few of our colleagues voted against the Cochran bill. Almost all of us voted in favor of it. One part of the

Cochran bill said it should be our national policy—it is our national policy—to deploy a system when ''technologically feasible'' or words to that effect.

But there is another provision in the Cochran bill which was added by amendment, by the Senator from Louisiana, Ms. LANDRIEU, which I cosponsored, which said that it is also the policy of the United States to seek to continue to reduce, by negotiations, the number of nuclear weapons in this world. That is also the policy of the United States.

We have two policies—a policy to deploy a limited missile defense and a policy to reduce the number of nuclear weapons. What happens when those two policies clash is unresolved in the Cochran bill.

We must continue on both those courses. If there is a conflict between deploying a limited defense, after it is technologically proven—assuming it is—and reducing the number of nuclear weapons through continuing negotiations, if there is a conflict—as there apparently is at the moment, since Russia says she will not reduce further nuclear weapons if we are going to unilaterally deploy a national missile defense—if and when there is such a conflict, that conflict will have to be resolved under the circumstances at that time.

So I think the Senator from Massachusetts was very proper in using the term ''we'' because many of us supported the Missile Defense Act because of the presence of a number of policies, both to deploy a system when technologically feasible, subject to appropriation, as well as to reduce, through negotiations, the number of nuclear weapons in this world.

This amendment is a commonsense, fly-before-you-buy amendment. It is consistent with the Senate's traditions. And it is something we have almost always required.

The few times we have deviated from the fly-before-you-buy approach, we have paid heavily for it, at least in a number of those instances. We should test against countermeasures. We are testing against countermeasures. This amendment simply says that it wants the Welch panel to be reauthorized, to continue in existence, to report to the Congress on defenses against countermeasures.

Finally, I will reread the one line which I think is so important from the Welch panel: The national missile defense program requires critical attention to potential countermeasures challenges.

That says it all to me. The current system does not address future countermeasure threats. It only addresses the so-called C–1 threat, as the Senator from Massachusetts pointed out. There are going to be in the future much more sophisticated countermeasures which this system has to be able to address or else it won't make sense to deploy. That is what we would be going on record as saying we believe is important. We would be doing what the Welch panel says is important: paying critical attention to potential countermeasures challenges, saying that the Congress cares about this issue, that it makes sense to us that as part of any decision of operational effectiveness, that there be testing against reasonably likely countermeasures that could be faced by a national missile defense.

I am glad my good friend from Virginia believes this is kind of a commonsense amendment, that it reinforces what the Secretary is already doing. I think it is very appropriate for Congress to do exactly that, to show our support when we do support something that is done by the executive branch and to state our opinion on the subject, and to put it in law so the next Secretary of Defense realizes it is in law and that there is congressional interest in the subject.

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

The Senator from Virginia.

Mr. WARNER. Mr. President, I have no better friend than my distinguished colleague from Michigan. What troubles me is he used the term ''reauthorize.'' Congress never authorized the Welch panel. It was convened by the Secretary of Defense.

Mr. LEVIN. I said the Secretary, not Congress.

Mr. WARNER. My friend used the term this amendment ''reauthorizes.'' I say to my good friend, Congress had nothing to do with it. This is a panel of the Secretary of Defense. The amendment language says ''to reconvene.'' It is not necessary to reconvene something which is ongoing. I want accuracy in this debate.

Mr. LEVIN. If my friend will yield, if I said Congress reauthorized instead of urging the Secretary to reconvene and to keep reconvened, I stand corrected and am happy to stand corrected.

I think the intent was clear, however, of what the Senator from Michigan said.

Mr. DURBIN. If the Senator from Virginia is not seeking time, I will continue allocating.

Mr. WARNER. The Senator may go ahead.

Mr. DURBIN. Mr. President, I yield 10 minutes to the Senator from Rhode Island, Mr. REED.

Mr. REED. Mr. President, I rise in support of the Durbin amendment. I commend him for raising this very important issue this evening.

This debate has already illustrated the knowledge of the participants and also the commitment of both sides in this debate to try to reach a very important and principled decision with respect to national missile defense. The obvious fact is that this is the most expensive military program we have contemplated, perhaps, in the history of this country, and there is a great deal riding on it.

It is not only financial, it is also strategic in terms of our increased security in the world and in terms of the reaction of our allies, reaction of potential adversaries, all of which makes this debate critical.

At the heart of this debate—one of the reasons the Senator from Illinois is contributing mightily to the debate—is the issue of countermeasures. The importance of countermeasures should be obvious to all of us. My colleague from Massachusetts talked about this. In the history of conflict, for every development, there is an attempt to circumvent or to neutralize that development. So it should be no wonder, as we contemplate deploying a national missile defense, our adversaries are at this time thinking of ways they could, in fact, defeat such a national missile defense.

There are two general ways to do that. One is to build more launchers with more warheads so you essentially overwhelm whatever missile defense we have in place. Or—this is probably the most likely response—you develop countermeasures on your missiles to confuse our defense and allow your missiles to penetrate despite our national missile defense.

At the heart of what we should be doing in contemplating the deployment and funding of this system is ensuring that in the testing we pay particular attention to the issue of countermeasures, because that is the most likely response of an adversary to defeat the system we are proposing. That is common sense in many respects. Anyone with a cursory knowledge of history would immediately arrive at that conclusion.

This is not a merely theoretical discussion. Sophisticated countermeasures already exist. They are the penetrating aids which are on most of the Russian missiles. There is the possibility, of course, that these penetrating aids will either be copied by rogue nations or, in fact, be traded or exchanged to these rogue nations.

I found very interesting a report by the intelligence community which was unclassified and issued last September. In their words:

> We assess that countries developing ballistic missiles would also develop various responses to U.S. theater and national defenses. Russia and China each have developed numerous countermeasures and probably are willing to sell the requisite technologies.
>
> Many countries, such as North Korea, Iran and Iraq, probably would rely initially on readily available technology—including separating RVs, spin-stabilized RVs, RV reorientation, radar absorbing material, booster fragmentation, low-power jammers, chaff, and simple balloon decoys—to develop penetration aids and countermeasures.
>
> These countries could develop countermeasures based on these technologies by the time they flight test their missiles.

Frankly, what we are testing against today is a very small fraction of these possible countermeasures penetrating aids. We have selected a very discrete set of the most primitive countermeasures, and we have used that as our benchmark to determine whether or

not the proposed national missile defense system will work well enough to fund development and ultimate deployment, when, in fact, our own intelligence community is telling us today there are numerous sophisticated penetrating aids that are readily available.

They are also telling us that as we build up this national missile defense, our potential adversaries, while they build their missiles, are not just waiting around. They are also developing their countermeasures. So countermeasures takes on a very important role in our deliberations.

Senator DURBIN has identified this critical issue and has focused the attention of the Senate on how we will respond to this particular issue. His response is not only principled but is entirely logical.

What he is saying is, let's ensure that in the testing process, we don't test the just rudimentary countermeasures, we test for robust countermeasures. If we can defeat those countermeasures, then we have a system that not only we can deploy, but that system will be much more stable, much more effective over time; in effect, increasing the longevity of the system. When we are going to spend upwards of $60 billion—I think that was one figure quoted; frankly, I believe whatever figure we have now, it will be much more when we finish paying the price—if we are spending that much money, we don't want to buy something that has a half-life of 1 year, 2 years, 3 years or 4 years. We want something that will justify the expense and defend the country against likely threats for many years.

Senator DURBIN used the analogy of golf. The other analogy that is very popular to try to bring into popular parlance what is going on here is essentially what we are trying to do is hit a bullet with another bullet, small objects flying through space at relatively large speeds. Think about how difficult that is right now.

We have made progress in terms of supercomputers, in terms of large-scale computer capacity. So the problem of identifying a speeding bullet and then calculating instantaneously through billions of calculations its trajectory and then sending that message to another bullet is a daunting physical problem, but we have made progress.

However, the countermeasures takes that daunting task and infinitely increases its complexity because to our system and our kinetic kill vehicle that is hurling through space, it won't be only one target; it could be multiple targets. To differentiate those targets, identify the real targets, and strike it in a matter of seconds is an incredibly complex technological task.

So I believe, once again, that the Senator has identified something that is critical to our responsibilities—not the responsibility of the Secretary of Defense, not the President's responsibility, but our responsibility as the Senate of the United States to supervise, to carefully review, and, ultimately, through appropriations and authorization, to give the final say about this system. That is our responsibility, and we would be rejecting that responsibility if we didn't look hard and insist that the executive look hard at this whole issue of countermeasures.

The other issue that has been discussed tonight is, why should we tell the Department of Defense to do something such as this when they are already doing it? Well, the simple answer is: We do it all the time.

Here are a few examples recently: Last December, the F–22, a very sophisticated fighter aircraft, was supposed to start its low-rate initial production; but this decision was delayed because there was dissatisfaction with its progress, with whether or not it was living up to its capabilities. We mandated tests because we were unsatisfied with the deployment schedule and its ability to be brought to the forces in the field. That was done much further along the line than the place we are in developing the national missile defense. In many respects, we are doing the same thing with the Joint Strike Fighter this year.

So it is not unusual to tell the Department of Defense, or to look over the Secretary's shoulder and say, even though you might be doing it, we want to make sure you are doing it, we want to make sure that they are looking specifically at the countermeasures. We want to know more specifically, when he talks about the capacity of this system to grow, will it grow up to all the countermeasures listed by the Intelligence Committee? Will it go from C–1 to C–2? We are not sure whether it will reach that ultimate test of countermeasures. This is a valuable role we must play.

There is another aspect to this whole debate, which I think should be noted. It is a very difficult thing and, in some respects, an intellectual challenge. For years and years, decades and decades, we have relied upon deterrence policy——

The PRESIDING OFFICER. The 10 minutes of the Senator have expired.

Mr. DURBIN. I yield an additional 1 minute to the Senator.

Mr. REED. I will wrap up quickly.

We have relied upon deterrence policy. At the heart of deterrence policy is the notion that the other side is rational, and they will calculate the damage you can do them just as you can calculate the damage that is done by them.

What has changed now? I would say that intellectually why we are even having this debate is we have abandoned this concept of rationality. We don't think North Korea is rational. Again, that is an assumption that we have to look at closely as we look at some of these other things. In some respects, if they are totally irrational, then maybe there is a little hope of deterring them from doing anything, even with the national missile defense. But that is the difference. That is why my colleague from Massachusetts said we used to think about intentions, and now we don't. We made an intellectual decision we weren't going to look at that because we concluded they were irrational. I suggest that as we pursue this debate, we should look seriously at whether or not that assumption is valid.

I thank the Senator from Illinois. I yield back my time.

Mr. DURBIN. Mr. President, I thank the Senator from Rhode Island. How much time is remaining on our side?

The PRESIDING OFFICER. Eleven and a half minutes remain.

Mr. DURBIN. Unless the Senator from Virginia wants to seek time, I will conclude at this point, as briefly as possible.

Mr. WARNER. I welcome that. We have had a good debate. Having said that, let's wrap it up and pay our respects to the Presiding Officer and the staff who have all indulged us for this period of time.

Mr. DURBIN. Mr. President, why do we test? We test so we can justify the taxpayers of America the expenditure of their hard-earned money in the defense of our country, to make certain that the expenditure is made in a way that we can stand and be proud of it.

Secondly, we test to make sure that whatever we are building in the defense of this country will work. That is all this amendment is about. It is to make certain if the national missile defense is to go forward and to provide assurance to American families not only now but for years to come, it is because we have a missile defense system that will work.

We have heard from a variety of different experts that the question of countermeasures is a critically important question. In the language of this amendment, we are asking the Secretary of Defense to come forward and give us guidance as to what the state of countermeasures might be in the world and to judge whether or not our missile defense system can deal with those countermeasures and whether we are testing to make certain that that happens. That is the bottom line.

The response from the Senator from Virginia, and virtually every Senator who has spoken, is the understanding that what we are asking for in this amendment is reasonably calculated to ensure that any missile defense system, in fact, gives us a real sense of security and not a false sense of security.

This amendment is not intended to derail the national missile defense system. It is intended to make certain that the system, if America comes to rely on it for national defense, actually works.

In years gone by, when we hurried along the testing process, we have had some sorry results. The B–1 bomber went into production in the late 1970s and wasn't fully integrated into flying units for 24 years. There were major problems with avionics, the engines,

and the defensive stealth configuration that costs literally hundreds of millions of dollars. Adequate testing did not take place before money was spent on a system that was not capable of meeting the need of our national defense. Let us not allow that to happen when it comes to something as critical as our national missile defense system.

I thank the Senator from Virginia for his patience this evening. I hope he believes, as I do, that this valuable debate will not only help the Senate but the country on this very important issue in a much more complete fashion. I thank the Senator.

Mr. WARNER. I thank my colleague. I daresay the final conference report in the Armed Services bill will draw on this amendment for certain portions of the law that we will write.

Mr. WELLSTONE. Mr. President, I also thank the chairman for making this a very important substantive debate. I thank the ranking minority member.

Mr. WARNER. I wonder if my colleagues might consider reviewing their position on the COCHRAN bill, while there may be other opportunities to express affirmation.

Mr. DURBIN. I thank the Senator from Virginia. We will.

Mr. WARNER. Mr. President, I believe the regular order would provide that we have concluded the matters in the unanimous consent agreement as it relates to this bill. We can wrap up for the night on this bill. I will yield to my colleague.

Mr. DURBIN. Mr. President, if I might, I don't believe I asked for the yeas and nays on the amendment. I do so now.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I believe the proposed amendment on testing of our National Missile defense system is overly broad, unnecessary, and counterproductive.

The amendment asks that we direct the Defense Department to conduct testing of our National Missile Defense system against—and I quote—''any countermeasures (including decoys) that . . . are likely, or at least realistically possible, to be used against the system.'' And it defines a countermeasure as ''any deliberate action taken by a country with long-range ballistic missiles to defeat or otherwise counter a United States National Missile Defense system.'' With language as broad as this, there is virtually no bound to what we would be directing the Ballistic Missile Defense Organization, as a matter of law, to go off and test against. I don't believe it is useful to legislate such broad and open-ended requirements.

Nor is it necessary. There is already a process in place to ensure that the National Missile Defense system—like every other weapon system we have—is properly tested against the likely threats if faces, including potential countermeasures. Our acquisition system has a methodical process by which requirements for any new weapon system are studied and approved, and National Missile Defense is no different. Moreover, there is an independent operational test and evaluation organization in the Defense Department as a second layer of oversight to make sure new systems are adequately tested. With those processes in place, there is no need for a third layer of requirements, levied in an overly broad statute, to deal with some vague technical notions that someone somewhere has imagined.

There are possible countermeasures to every weapon and those are considered as a matter of course in the design and testing of every system. We don't have legislation directing realistic operational testing against any possible countermeasures for the F–22, for example, and I see no reason to single out this particular weapon system for such treatment.

Most of the recent talk about countermeasures to the NMD system has been generated by wild accusations from some college professors who have long opposed missile defenses of any sort. They would have us believe that countermeasures can become reality for even technologically unsophisticated nations simply because they can be imagined. But in the real world, in which ideas have to be translated to design, and design to hardware, and the hardware tested, the reality is far different.

Those who are building our missile defense system understand this and that is why they have built in to that system the capability to deal with countermeasures as they evolve. The pending amendment would direct a reconvening of the Welsh Commission to examine this issue, but the fact is that General Welsh and his team have already looked at this issue. This is what he told the Senate just a couple weeks ago:

> There is very significant potential designed into the C–1 [initial NMD] system to grow to beyond the capability to deal with those countermeasures. The problem with estimates as to what people can give was that—the Chinese will share it, the Russians will share it—it's one thing to share technology, it's something else to incorporate it into your system. And, so unless they share an all-out system ready to launch, there is still a very significant technical challenge to integrating somebody else's countermeasure technology into your offensive weapons system.

Those who believe it will be easy for rogue states to incorporate countermeasures into their long-range ballistic missiles should consider what happened last Friday night in the test of the National Missile Defense system. A Minuteman target missile was launched from Vandenberg Air force Base carrying a dummy warhead and a balloon decoy. No nation except perhaps Russia has more experience than the United States with technically sophisticated countermeasures, and those who say such measures will be easy for rogue states to deploy derided this balloon decoy as laughably simple. Well, the decoy didn't deploy properly. As Undersecretary of Defense Jacques Gansler noted following the test, ''Others have said how easy it is to put up decoys, by the way. This is the proof that one decoy we were trying to put up didn't go up.''

Mr. President, countermeasures will eventually challenge the National Missile Defense system, just as they have challenged every other weapons system that has ever been deployed. But they aren't anywhere near as easy to perfect as opponents of missile defense would have us believe, and we already have adequate measures in place to ensure the National Missile Defense system is adequately designed and tested to account for potential countermeasures. This legislation is vague, overly broad, and unnecessary. I urge Senators to vote against it.

Mr. BINGAMAN. Mr. President, I rise to support the amendment being offered by my colleague, Senator DURBIN, calling for effective testing of the National Missile Defense (NMD) program now under development by the Department of Defense.

When the President signed H.R. 4, the National Missile Defense Act of 1999, into law a year ago, he made the statement that ''any NMD system we deploy must be operationally effective, cost-effective, and enhance our security.'' The key word in the President's statement, Mr. President, is ''effective.'' In other words, before we decide to move ahead with the NMD program, among other important considerations, we must be confident that the system will be an ''effective'' one.

Last year, when we debated this matter in the Senate, I spoke with my colleague, Senator COCHRAN, who agreed with me that we shouldn't buy the system until we know that it will work. It's common sense, of course, to hold back on a decision to purchase something until we know that it will work as advertised. We know that as private consumers. The same is true for the government as a consumer.

Indeed, that is the policy of the Department of Defense (DoD) with respect to its purchase of ALL major weapon systems. DoD's policy instruction governing acquisition of all major weapon systems, DoD Directive 5000.1, contains a number of provisions intended to ensure that the customer, DoD as well as the nation as a whole, will get what we pay for.

The bottom line for the Department of Defense regarding ''effectiveness'' is whether a weapon system is tested successfully in realistic operating situations. The DoD instruction states that ''before purchasing a weapon system from the production line, the Director of Operational Test and Evaluation must report to the Secretary of Defense that the system is operationally effective and suitable for use in combat.'' That should be true for missile

interceptors as well as for conventional guns, tanks, and airplanes.

Mr. President, the Congress has on many occasions expressed its commitment to the taxpayer that the billions spent on weapons will provide the nation with the real military capability we may need. The provision of DoD Instruction 5000.1 that I have cited is one such example. Another was legislation enacted during the 1980's requiring warranties on all major weapon systems and their components.

We also, know, Mr. President, that when we fail to require that a system meet operational standards, we pay a heavy price. In the early 1980's, the Congress appropriated over $20 billion dollars to purchase 100 B–1B bombers. The problem was that we had never tested them. The B–1B looked like the B–1A, but in fact was a far different weapon. It needed to be tested. We didn't do it and went ahead with the purchase. Mr. President, we now know the unfortunate history of that purchase. It wasn't until recently that the DoD used the B–1B in combat, and even then under very special operational circumstances. In the intervening decade and a half, the Air Force chose other ways to get the job done. I'm convinced that, in part, it was because the Air Force knew that the B–1B would not have been capable of getting the job done. There are other expensive examples I could use to illustrate the price we've paid for inadequate testing. Design flaws in the C–5 and F–18 have ended up costing the taxpayer a bundle. I'm sure you've recently read the news reports about flaws in the protective suits for our troops to use in a chemical or biological warfare environment. They weren't adequately tested either.

The amendment Senator DURBIN is sponsoring today seeks simply to affirm Congressional commitment to the taxpayer, to the men and women in uniform who must operate our weapons, and to the nation that must depend on it for our defense. I am pleased to cosponsor this amendment that would require that the NMD system be tested against possible countermeasures that are likely, or at least realistically possible, to be used to accompany attacking warheads that potential enemies could launch against us. The amendment calls for the Ballistic Missile Defense Organization (BMDO) to plan ground and flight tests to address those threats, to seek funds to support what's needed to meet them, and to report annually on the status and progress of the NMD program regarding countermeasures. In short, Mr. President, the amendment proposes concrete actions to ensure that we know the exact nature of the threat, that we plan appropriate technical responses, and that we test adequately to make sure that those responses work.

We are all aware of the recent outcome of the latest NMD flight test, IFT–5. In that test, a developmental test, the kill vehicle failed to separate from its booster to engage the incoming target warhead. Mr. President, this was a test designed and conducted under very controlled, hardly realistic, conditions. It was a test in which all the pieces of the complex NMD system were given special capabilities to carry out their job in a controlled, experimental environment.

I think we can all agree that it's appropriate to walk before we run. In ''walking'' through this test, IFT–5, we have discovered once again how difficult it is to ''hit a bullet with a bullet'' even though we think we know how each piece of the system will function. I'd like to emphasize, Mr. President, that this was not an operational test under realistic conditions that DoD requires for every other major weapon system before it decides to go ahead and buy it. This was a controlled, laboratory test in which one of the pieces we thought we know most about failed.

I believe that although the NMD test program to date indicates that we are developing some amazing capabilities, we are a very long way from being confident that the NMD system as a whole will work. Indeed, in order for an NMD test to be truly realistic, there are a whole host of variables that must differ significantly from the conditions that were present during the IFT–5 test. In order to be more realistic, for example, future tests should reorient the basic geographic direction of the test from West to East rather than East to West. The flight test envelope would have to be greatly enlarged. Various types of countermeasures, the subject of the amendment, should be used. Actual military personnel who would operate the system should be at the controls. Information from the warning system should reflect likely warning times. We are a very long way from realistic testing the NMD system in those regards and a number of others. This amendment addresses only one of those variables, albeit a very important one. Adopting this amendment will provide us with critical information about the feasibility of the NMD system to get the job done. Committing ourselves to procuring and deploying the NMD system until we know the answers to questions regarding key operational capabilities would be premature and ill-advised.

There are other critical factors that will play important and necessary roles in determining whether the President will commit the nation to deploying NMD. Surely the nature of the threat must be assessed and reassessed to make sure that this program is warranted. Surely the possible responses of our allies and potential adversaries will play an important part in the President's calculation. At the end of the day, the President will have determined whether the nation is more or less secure as a result of deciding to deploy the NMD system.

In the meantime, as responsible stewards for public expenditures, it behooves us to take all measures necessary to ensure that the billions we are spending for NMD are giving the taxpayer real dividends. This amendment is an important means to make that happen. I urge all of my colleagues to support realistic testing before committing the nation to procurement and deployment of NMD. Thank you, Mr. President. I yield the floor.

Mr. JEFFORDS. Mr. President, this discussion of a national missile defense system comes at a timely moment. As we struggle to complete action on our thirteen appropriations bills that fund the Federal Government, we are confronted with many unmet needs and the desire to reduce the amount the Federal Government takes from the American taxpayers' hard earned income. The budget agreement locks in spending limits and requires a balanced budget, thereby preventing us from increasing spending on missile defense without cutting other programs. The debate over how much to spend in research on a national missile defense (NMD) system and whether it is time to make a decision on deployment strongly effects both the government's ability to meet the needs of Americans and the likelihood that we will be able to return money to the taxpayers of this country. The costs of such a system and the choices it would force us to make must be carefully weighed against the benefit of an NMD system, the chances that it would work, and the effect that deployment would have on the arms control agenda of the United States.

The decision on how much to spend on an NMD research program cannot be made without considering these questions. We must ask how much we can afford to spend on defense. I argue that national security also has a social component: affordable health care for all Americans, better job opportunities, a strong education system and economic security for America's seniors are all facets of a strong America. Without these things, military technology cannot protect America from the real threats against us.

I have long supported a reasonable program of research and testing of anti-ballistic missile technologies, while opposing efforts to throw huge increases at the program. I hope that thoughtful research will lead to some technological breakthroughs on ways to counter ballistic missiles. Their proliferation, especially in the hands of irresponsible leaders such as North Korea's Kim Jong Il, requires that we actively investigate possible defenses. We cannot ignore the emergence of new nuclear threats to the United States.

A premature decision to deploy an inadequately tested national missile defense system would also be a risk to national security. We cannot afford to spend huge amounts of money on a system we are not certain would work, or on a system that might provoke the very reaction from rogue states that we are ultimately trying to prevent. I

am a strong believer in strengthening international non-proliferation regimes such as the Non-Proliferation Treaty and the Comprehensive Test Ban Treaty, which I am very disappointed the Senate has failed to ratify. Successful non-proliferation efforts are worth every penny! The Anti-Ballistic Missile Treaty has also served us well for many years, and we must be careful to not throw out a valuable asset in our rush to jump on the newest technology.

I am pleased to be a cosponsor of Senator DURBIN's amendment to add some important requirements to any national missile defense testing regime. This amendment would require realistic testing of an NMD system against the countermeasures that might be deployed against it. Senator DURBIN's amendment would help ensure that if we move to consider deployment of an NMD system, we would have a realistic assessment of that system's expected performance. Any evaluation of the effectiveness of an NMD system must consider not only the capabilities of the system itself, but its ability to survive what we expect might be thrown up to defeat it. Without this information, it would be hard to judge the true utility of such a system, and easy to overestimate its performance.

This past Friday's failed test of a space intercept brings into sharper focus the issue of claims and performance of an NMD system. Without realistic tests proving the expectations of researchers, we can never be sure that laboratory results can be duplicated in practice. It might be tempting to rush to deploy a system that appeared to provide significant protection for the American people. Passage of this amendment would help ensure that any system have a reasonable chance of working before it is considered for deployment.

I continue to believe that our greatest vulnerability to nuclear attack is not from a nuclear bomb delivered by an intercontinental ballistic missile, but rather from a nuclear devise slipped into the country in some much less visible way, like hidden in some cargo coming into a major U.S. seaport. Committing many billions of dollars to deploy the proposed defense systems would do nothing to protect us against this very real threat. At this time, it would be much more productive to invest these funds in stopping the spread of nuclear technologies and in using other means to counter terrorist organizations and other rogue elements.

Personally, I believe that the politics of missile defense have gotten way out ahead of the science of missile defense. This amendment would help restore the proper order of these concepts. I urge my colleagues to support the Durbin amendment.

Mrs. BOXER. Mr. President, the Durbin amendment to the fiscal year 2001 Defense authorization bill is a common sense proposal that will ensure that a National Missile Defense system is properly tested before it becomes operational.

President Clinton is expected to make a decision in the next few months on whether or not to begin the deployment of a National Missile Defense system. He has said that the decision will be based on four criteria: the readiness of the technology, the impact on arms control and our relations with Russia, the cost of the system, and the threat. Based on these criteria, I do not believe that a decision to deploy should be made at this time.

This amendment deals with just one of these criteria, the readiness of the technology. It says that the National Missile Defense system should be tested against realistic decoys and other counter-measures before it becomes operational. Initial operating capability is now scheduled for 2005.

Let me be clear, this amendment would not prevent a deployment decision this year, nor would it delay the deployment of the system.

Mr. President, this is no different from school. if you cannot pass the exams, you cannot graduate. In this case, if NMD cannot pass a test against realistic counter-measures, it will not be made operational. There will be no social promotion of missile defense. The strategic implications of this system are too great. We do not want to make a system operational that we are not sure will work against an incoming warhead.

Now the opponents of this legislation might say: Senator Boxer, this amendment is unnecessary. The U.S. would never make a missile defense system operational that wouldn't work.

Well, in 1969 the U.S. made a decision to deploy the Safeguard missile defense system to defend U.S. missile against incoming Soviet missiles. This system would have used Spartan missiles armed with small nuclear warheads to intercept incoming ICBMs.

On October 1, 1975, after spending $6 billion (over $20 billion in today's dollars), the first ABM site became operational at Nekoma, North Dakota. Five months later the project was terminated.

Why was the project terminated? Because it didn't work. There were at least two major problems with the Safeguard system. First, its radars were vulnerable to destruction by Soviet missiles. Destruction of these radar systems would blind the defensive system. Second it was found that when the nuclear warheads on defending Spartan missiles were detonated, these explosions themselves would also blind the radar systems. You do not have to be a rocket scientist to know that it is important for the system to work before it is made operational.

So why is the Senator from Illinois concerned about countermeasures? A September 1999 National Intelligence Estimate warned that emerging missile states would use counter-measures.

Let me quote from the unclassified version of the report:

> Many countries, such as North Korea, Iran, and Iraq would rely initially on readily available technology—including separating warheads, spin-stabilized warheads, warhead reorientation, radar absorbing material, booster fragmentation, low power jammers, chaff, and simple balloon decoys.

It goes on to say that ''Russia and China each have developed numerous counter-measures and probably are willing to sell the requisite technology.''

Many of our best scientists have said that the planned NMD system would be defeated by counter-measures. An April 2000 report released jointly by the Union of Concerned Scientists and MIT Security Studies Program found that ''the current testing program is not capable of assessing the system's effectiveness against a realistic attack.''

So Mr. President, this is an important amendment. It would ensure that our NMD system is tested against realistic counter-measures and require detailed reports from the Secretary of Defense and the Independent Review Panel which is headed by retired Air Force General Larry Welch.

I congratulate my friend, Senator DURBIN, for offering this important amendment and I urge the Senate to adopt it.

Mr. HATCH. Mr. President, I want to extend my personal gratitude to the Armed Services Committee Chairman and the Ranking Member, as well as to the Chairman and Ranking Member of the Subcommittee on Readiness for their consideration of my recommended language at Sec. 361 of this bill. This provision requires the Secretary of Defense to report on the consequences of high OPTEMPO on military aviation and ground equipment. Let me explain why I applaud this provision. My particular interest is somewhat more focused on aviation assets.

Quite simply, we need to know the adverse effects that the worldwide contingency operations engaged in by our military high-performance aircraft are having on the integrity of the aircraft's frame, engines and other components.

I raise this issue, Mr. President, because my state proudly hosts the Ogden Air Logistics Center at Hill Air Force Base, Utah. Just recently, a team of depot technicians at Hill discovered that the mechanical assembly designed to brake or halt the rise and fall of the stabilizer on the Air Force KC–135 tanker had been prematurely wearing out because of a surge of KC–135 flight activity, much of it related to the frantic deployment schedules that these aircrews are tied to.

The shortage of replacement parts for the stabilizer braking system forced the Air Force to come up with a methodology to refurbish the old part. There had never been a refurbishment of the braking assembly before this time.

This is an important fact because the engineering design missed a critical step in the refurbishment process designed to heat out hydrogen that

risked getting into microscopic fissures in the brake ratchet. This would have eventually embrittled the system, causing the stabilizer to fail. It would have meant with near certainty that we would have lost aircraft in midair flight as well as some aircrew lives.

The Secretary of the Air Force, Whitten Peters, has commended the depot technicians for their astute recommendations to the Air Force Materiel Command to ground the KC–135 fleet; this was done, and I am convinced that lives were saved.

But I am no less convinced that we need better visibility over the rapidly aging aircraft airframes and other parts are suffering from the near-frenetic flying schedules and deployments that they and their crews are committed to. Put more directly: we cannot and must not push these brave aircrews into harm's way in aircraft that are even remotely vulnerable to critical component failures.

Mr. President, my concern extends to all tactical and strategic, as well as support and service support aviation assets used in these contingency and peacekeeping operations by the Navy, Marine Corps, and the Air Force. The provision asks for a study of the effects of these deployments on all such assets. Wisely, the Committee has added Army aviation since its predominately rotary wing—or helicopter—operations warrant inclusion in the scope of this assessment.

If one looks at the Air Force commitments, which have carried the bulk of many of the contingency operations, the statistics are as staggering as they are telling: 18,400 sorties over Iraq; 73 percent of the air assets patrolling the Northern watch no-fly zone which produced 75 percent of the total number of sorties in that region. In the Southern Watch no-fly zone, the Air Force also provided 35 percent of the total air assets and produced 68 percent of the sorties. But I don't want to ignore the Navy with its carrier-based aircraft that undergo take-off and, especially, landing procedures that create unimaginably harsh stresses on aircraft. Many members of this body have witnessed carrier operations and know precisely what I am talking about. Some of our colleagues, like my good friends John McCain and Tom Harkin, are even former Navy carrier pilots.

The Secretary of Defense has tried to deal with this issue. And we have tried to help him in the past year. Secretary Bill Cohen cited in his report to Congress this February that aging systems, spot spare parts shortages, and high OPTEMPO [high operating tempo] are placing increased pressure on materiel readiness.'' The Secretary has testified to his ''particular concern'' for ''negative readiness trends in mission capable rates for aircraft.'' Last year, Congress provided DOD with $1.8 billion in Kosovo emergency supplemental funding to meet the most urgent demands.

Yet, our equipment is aging. The average age of Air Force aircraft is now 20 years old. Our state of art air-to-ground mission aircraft, the F–16, has a technology base older than most of its pilots, some of whom are flying F–16 aircraft that have been in service longer than they have been alive! The problems of corrosion, fatigue and even parts obsolescence are rampant. I spend much time at Hill Air Force Base in my state of Utah. There are certain critical components that are still tied to vacuum tube technology. Imagine that! How many of us still listen to vacuum tube radios; some of our younger staff members may not even know what they are! Some of our top-of-the-line tactical fighter aircraft use gyroscopes—which are absolutely critical to positional accuracy—that are several generations old. It bothers me greatly to hear people complain about ''gold-plated'' military aircraft. I would invite any of them to join me in a tour of the Ogden, Utah, depot. When they see the condition of components from our best tactical fighters being serviced, I suspect they would better understand the real meaning of courage.

But let me conclude with a word about the most important resource in this equation: people. We have reduced our forces by 30 percent and increased deployments by nearly 400 percent. The effect is exactly what you would expect. Recently, the Marine Corps' Commandant and the Army Chief of Staff announced that deployments of their aviation and ground equipment are now 16 times the rate during the Cold War. Unprecedented pilot losses, reaching a 33 percent level in the Navy, 15 percent in the Air Force and 21 percent in the Marine Corps. But the most critical losses are found among the highly specialized aircraft service technicians. Specialists in electronic components, air traffic control, armaments and munitions, and other technical specialties, at all levels of service, short-term, mid-term and long-term, are leaving in unprecedented numbers. Even the Air Force's valiant Expeditionary Air Force concept, which organizes a highly mobile slice of the Air Force into 10 task forces, called ''Air Expeditionary Forces,'' faces technical enlisted skill shortages which still burden the fewer and fewer technicians who remain on active duty, according to a General Accounting Office study on military personnel released in early March 2000.

Mr. President, I want to thank my colleagues for listening to this long presentation regarding my concerns for the state of our military aircraft and the people who fly and service them. I know that most will join with me and the committee in calling for a full review of the consequences of the unprecedented peacetime demands being made on our people and their equipment.

NATIONAL GUARD CHALLENGE PROGRAM

Mr. BYRD. Mr. President, I am seriously concerned about Section 910 of S. 2549, the National Defense Authorization Act for Fiscal Year 2001.

Section 910 would effect the transfer of responsibility for the National Guard Youth ChalleNGe program from the Chief of the National Guard Bureau to the Secretary of Defense and would amend the limitation on federal funding for the National Guard Challenge program to limit only Department of Defense funding. This language removes the National Guard Bureau from the ''chain of command'' and from its statutory role as the channel of communication between the federal government and the states (10 U.S.C. Sec. 10501).

Youth ChalleNGe exists in 25 states and is a federal/state partnership program. While there is partial federal funding (which is capped by law at $62.5 million per year), the ChalleNGe staff members are state employees who meet state teacher and counselor certification requirements. All legally binding cooperative agreements currently in place are between the Governors and the Chief, National Guard Bureau.

ChalleNGe is a highly successful program that takes at-risk youths and gives them the opportunity to turn their lives around and become productive members of their communities. Since the program was established, with my assistance in 1991, more than 4,500 young Americans have graduated. Of this number, more than 66% have earned their GED or high school diploma; more than 12% entered the military, and more than 16% enrolled in college.

ChalleNGe is a program in demand by the states. If it were not for the cap on spending, more states would have a ChalleNGe program. Transferring authority from the National Guard to the Office of the Assistant Secretary of Defense for Reserve Affairs could only have a negative impact and upset a program that is operating extremely well under the auspices of the National Guard Bureau. It would add another layer of bureaucracy and require the State National Guard programs to relate through an altogether new ''chain of command'' for the Youth ChalleNGe program, while maintaining the existing ''chain of command'' for all other National Guard activities.

On June 16th of this year, I participated in the graduation ceremony of the cadets of the Mountaineer ChalleNGe program at Camp Dawson, West Virginia. In all my years of delivering commencement speeches and high school diplomas, I can say without reservation that this was the most impressive group of students that I have ever encountered. The graduates sat at full attention throughout the event, with obvious pride in their hard-earned achievements and serious commitment to a future on the right path. Such transformation can not be achieved by mere bootcamp exercises alone. It takes a tough-love approach with caring and compassionate instructors who want to see the lives of these troubled youth turned around forever. The National Guard offers these young people

the very virtues—leadership, followership, community service, job skills, health and nutrition, and physical education—that are in keeping with the Guard's tradition of adding value to America and it certainly showed in West Virginia.

Let us not punish this fine organization which is doing an exceptional job in helping youth in-need.

Mr. WARNER. It is my understanding that the committee report language may not fully and adequately explain the intent of the Committee. The Committee's intent is to reaffirm the role of the Secretary of Defense to establish policy for and oversee the operation of DOD programs. I intend to see that the conference report language adequately expresses the view that the National Guard is to continue to administer the Youth ChalleNGe program under the oversight and direction of the Secretary of Defense.

Mr. LEVIN. I think the Chairman has a workable solution. It is not the intent of the Committee that the National Guard should lose its ability to administer this highly successful program. Rather, the intent is that there be adequate policy direction and oversight of the Youth ChalleNGe program by the Secretary of Defense.

Mr. BYRD. I had intended to offer an amendment to clarify this issue. However, I believe that the comments of the distinguished Chairman and Ranking Minority Member of the Armed Services Committee have helped clear up this matter. I hope the conference report will further clarify the matter.

CONVEYANCE AUTHORITY FOR UTILITY SYSTEMS

Mr. GORTON. Mr. President, I am very concerned about a provision contained in H.R. 4205, the National Defense Authorization Act for Fiscal Year 2001, regarding the conveyance authority for utility systems at U.S. military installations. The House proposes to change existing law in a manner that jeopardizes the ability of a municipal utility in Washington, Tacoma Power, to participate in the competitive selection process and acquire Fort Lewis' electric utility system. Fort Lewis is Washington's major Army base. I oppose changes to DOD's current conveyance authority, when that change impedes competition.

The Department of Defense is privatizing utility systems at military bases throughout the county. Military bases are considered Federal enclaves, and therefore are subject to Federal, rather than State, law. The language contained in H.R. 4205 dramatically weakens existing Federal law by subjecting military bases to State laws, regulations, rulings and orders in the competitive bid process of their utility systems. This would have a negative impact on DOD utility privatization efforts in my state of Washington. The reason for this is that utility service territories in Washington are established by service area agreements—contracts—rather than by State decree. Eliminating the Federal law that applies on military bases would create a host of legal questions, the effect of which is to foster litigation and undercut the DOD privatization process in Washington.

Because I am not a member of the Senate Armed Services Committee, and would therefore not be privy to Conference Committee negotiations, I respectfully request your assistance in assuring that whatever utility language is included in the FY01 Defense Authorization bill properly takes into account the unique circumstances of Washington.

Mr. WARNER. I share the Senator's concerns regarding the impact the House language might have on competition, and will work with you to ensure that Washington state's issues are addressed during the conference. Any suggestions you may have on this matter would be most welcome.

Mr. GORTON. I thank the Senator in advance for your commitment to this effort. I look forward the working with you in the coming weeks to see that this issue is resolved in a favorable manner.

Mr. KENNEDY. Mr. President, this past year, the men and women of the Armed Forces proved, once again, the value of a strong and ready military. Since the end of the Cold War, our Armed Forces have been busier, and have conducted a greater variety of missions around the world, than at any other time during our nation's history, short of war.

Our forces ended Serb aggression in Kosovo, brought peace to East Timor, and aided earthquake victims in Turkey. At this moment, American service men and women are monitoring the demilitarized zone in Korea, enforcing the no-fly zones over Iraq, patrolling the Arabian Gulf for oil smugglers, and assisting in the battle against drugs in Central and South America. These activities are in addition to the daily operations they conduct at home and with our allies overseas to maintain the readiness of our forces.

Our National Guard and Reserve members continue as equal partners in carrying out our national security and national military strategies. Last May, in the span of only one week, C–5 transport aircraft from the 439th Airlift Wing at Westover Air Reserve Base in Massachusetts carried helicopters and equipment to Trinidad-Tobago to aid in the war against drugs, flew the Navy's new mini-submarine to Hawaii, an unprecedented accomplishment and a tribute to their ingenuity and resourcefulness, airlifted Marines to Greece, carried supplies to Europe, and continued their very important training at home.

Last week, over a hundred citizen-soldiers from Bravo Company of the 368th Engineer Combat Battalion left their homes in Attleboro, Massachusetts for duty in Kosovo.

These are just a few examples of what Guard and Reserve members from every state, do for us each day around the world.

We ask the men and women of our Armed Forces to prepare for and respond to every contingency, from supporting humanitarian relief efforts, peacekeeping, and enforcing United Nations sanctions, to fighting a full-scale Major Theater War. A quarter million of our service members are deployed around the world to deter aggression, keep the peace, promote democracy, and foster goodwill and cooperation with our allies, and even with our potential adversaries.

All of our men and women in uniform put our nation's interests above their own. When called upon, they risk their lives for our freedom. As a nation, we often take this sacrifice for granted, until we are reminded of it again by tragic events such as the April training accident in Arizona, where 19 Marines lost their lives in the line of duty. These Marines paid the ultimate sacrifice for their country, and it was fitting for the Senate to honor them with a resolution. I commend my colleague Senator SNOWE for her leadership on that resolution.

More recently, this week, two Arizona Army Guardsmen lost their lives when their Apache helicopter crashed in a night training exercise. Two Navy pilots were killed in a training accident in Maryland. The cost of training in the name of peace and security is high.

One of Congress' most important duties is to make sure that our Armed Forces are able to meet the many challenges of an increasingly unstable international environment. Both the Director of Central Intelligence and the Director of the Defense Intelligence Agency testified before the Senate Armed Services Committee that, more than at any other time in the nation's history, we are at risk of ''substantial surprise'' by adversaries. Their views are supported by the worldwide expansion of information technology, the proliferation of dual-use technology, and the fact that the expertise to develop weapons of mass destruction is available and for hire on the open market.

The growing resentment by potential adversaries of our status as the last superpower makes us susceptible to hostile acts ranging from computer attacks to chemical or biological terrorism. Our military must be equipped to deter this aggression and, if necessary, counter it. The FY 2001 National Defense Authorization Bill takes a positive step toward doing so.

The many activities which our forces have undertaken and maintained in the past decade, in spite of reduced resources, has taken a toll on our people, their equipment, and readiness. This bill continues the increases in defense spending needed to reverse this trend that the President and Congress began last year. At $310 billion, this bill represents real growth, and a necessary investment in the future of the nation's security. At the heart of our armed forces are the soldiers, sailors,

airmen and Marines who took the oath of office to support and defend the Constitution against all of our enemies, foreign and domestic. Clearly, without them, we could not preserve our freedom. Attracting young men and women to serve, and retaining them in an all-volunteer force, is more challenging than ever. Last year, Congress authorized the largest pay raise in nearly two decades, reformed the pay table, and restored the 50% retirement benefit. This year, we continue these efforts to support our service members and their families, by granting a 3.7 percent pay raise, which is one-half percent above inflation. We also provide for the gradual reduction to zero—over five years—of out-of-pocket housing expenses for service members living off base, and we provide better military health care for family members. The bill also directs the implementation of the Thrift Savings Plan that Congress authorized last year. The welfare of the men and women of our armed forces is rightly at the center of this year's Defense Authorization Bill.

The bill also takes a bold and necessary step to honoring the promise of lifetime health care for military retirees. The Armed Services Committee heeded the needs of our military retirees, and addressed their number one priority—the cost of prescription drugs. The Defense Authorization Bill expands the Base Realignment and Closure pharmacy benefit—already available to 450,000 retirees—to the entire 1.4 million Medicare-eligible military retiree community. This benefit lets all men and women in uniform know that we care about their service, and that a career in the military is honorable and worth pursuing. It also lets all military retirees know that Congress is listening, cares, and is willing to act on their behalf.

The bill also continues and expands health care demonstration programs to evaluate how we can best address the health care needs of these retirees. We must complete the evaluation of these programs and move to answer their needs. I am hopeful that soon, we will be able to do more.

The bill also enhances efforts to prepare for and respond to other threats. It authorizes five additional Civil Support Teams to a total of 32 by the end of FY 2001. The teams will be specially trained and equipped to respond to the suspected use of weapons of mass destruction on American soil. While we hope they will never be needed, we must be prepared for any emergency.

The bill adds $74 million for programs to protect against chemical and biological agents, and it funds the research and development for a second generation, single-shot anthrax vaccine. The men and women of our Armed Forces need this support now.

Each service has taken steps to protect the environment, but too little has been done to detect and deal with the effects of unexploded ordnance. On the Massachusetts Military Reservation, unexploded ordnance may be contaminating the soil and groundwater in the area. This situation is unacceptable. If it is not addressed now, it could cause irreparable harm to the environment and the people who live there.

Unexploded ordnance is a problem in every active and formerly-used live-fire training facility. The bill includes $10 million to develop and test new technologies to detect unexploded ordnance and analyze and map the presence of their contaminants, so that they can be more easily cleaned up. For too many years, this issue has been ignored. The time has come for the Department of Defense to take on the task of removing UXO. This step is essential to ensure the continued operation of training ranges, which are vital to the continued readiness of our forces and the safe reuse of facilities that have been closed.

Last May, the country felt the effect of a simple computer virus that disabled e-mail systems throughout the world, and cost industry billions of dollars. The ''Love Bug'' virus also reportedly infected classified e-mail systems within the Department of Defense. Last year, more than 22,000 cyber-attacks took place on DOD computer systems—a 300 percent increase over the previous year. The cyber threat to national security will become more complex and more disruptive in the future. Our armed forces must be better prepared to deal with this threat and to protect these information systems. The bill adds $77 million to address this serious and growing threat.

In the Seapower Subcommittee, under the leadership of our distinguished chair, Senator SNOWE, we heard testimony and continued concern about the Navy's force structure, the shipbuilding rate, and the overall readiness of the fleet. I support the Secretary of the Navy's decision to increase R&D spending for the new land-attack destroyer, DD–21, but I am concerned about the delay in the program, the effect of this delay on fire support requirements of the Marine Corps, and its effect on our shipbuilding industrial base.

The bill includes $550 million for DD–21 research and development. It also asks the Navy to report to Congress on the feasibility of starting DD–21 construction in FY 2004, as originally scheduled, for delivery by 2009, and the effects of the current delay on the destroyer shipbuilding industrial base.

To ease the strain on the shipbuilding industrial base, the bill authorizes the extension of the DDG–51 multi-year procurement, approved by Congress in 1997, to include procurements through fiscal year 2005. This increase will bring greater near-term health to our destroyer shipyards. It could raise the Navy's overall shipbuilding rate to an acceptable level of 9 ships for each of those years, and it could save almost $600 million for these ships by avoiding the additional unit cost of building them at a smaller rate. This increase benefits the Navy, the shipyards, and the shipyard workers, and it is fiscally responsible.

I am particularly concerned about one section of the bill that closes the School of the Americas and then reopens it as the Defense Institute for Hemispheric Security Cooperation.

Despite the additional human rights curriculum, I am concerned that well-known abuses by the School's graduates have caused irreparable harm to its credibility. The School accounts for less than 10 percent of the joint education and training programs conducted by the U.S. military for Latin American forces, but it has graduated some of the most notorious human rights abusers in our hemisphere.

A report of the UN Truth Commission on the School implicated former trainees, including death squad organizer Robert D'Abuisson, in atrocities committed in El Salvador. During the investigation of the 1989 murder of six Jesuit priests in El Salvador, it turned out that 19 of the 26 people implicated in this case were graduates of the School. Other graduates include Leopoldo Galtieri, the former head of the Argentine junta, Manuel Noriega, the former dictator of Panama, and Augusto Pinochet, the former dictator of Chile. In September 1996, after years of accusations that the School teaches soldiers how to torture and commit other human rights violations, the Department of Defense acknowledged that instructors at the School had taught such techniques.

I welcome the Army's recognition that human rights and civil-military relations must be a top priority in our programs with Latin America. The provision in this bill, will close the School and immediately reopen it with a new name at the same location, with the same students and with much of the same curriculum. But this step will not solve the problems that have plagued this institution.

I commend my colleague, Representative MOAKLEY, for his leadership on this issue and his proposal to create a Task Force to assess the type of education and training appropriate for the Department of Defense to provide to military personnel of Latin American nations. These issues demand our attention, and we must address them more effectively.

In summary, I commend my colleagues on the Armed Services Committee for their leadership in dealing with the many challenges facing our nation on national defense. This bill keeps the faith with the 2.2 million men and women who make up our active duty, guard, and reserve forces. It is vital to our nation's security, and I urge the Senate to approve it.

Mr. WARNER. Mr. President, I ask unanimous consent that a previous unanimous consent agreement regarding the ''boilerplate language'' for completing the Defense authorization be modified with the changes that I now send to the desk.

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

The unanimous consent agreement, as modified, is as follows:

I ask unanimous consent that, with the exception of the Byrd amendment on bilateral trade which will be disposed of this evening, that votes occur on the other amendments listed in that Order beginning at 9:30 A.M. on Thursday, July 13, 2000.

I further ask unanimous consent that, upon final passage of H.R. 4205, the Senate amendment, be printed as passed.

I further ask unanimous consent that, following disposition of H.R. 4205 and the appointment of conferees the Senate proceed immediately to the consideration en bloc of S. 2550, S. 2551, and S. 2552 (Calendar Order Numbers, 544, 545, and 546); that all after the enacting clause of these bills be stricken and that the appropriate portion of S. 2549, as amended, be inserted in lieu thereof, as follows:

S. 2550: Insert Division A of S. 2549, as amended;

S. 2551: Insert Division B of S. 2549, as amended;

S. 2552: Insert Division C of S. 2549, as amended; that these bills be advanced to third reading and passed; that the motion to reconsider en bloc be laid upon the table; and that the above actions occur without intervening action or debate.

Finally, I ask unanimous consent with respect to S. 2550, S. 2551, and S. 2552, that if the Senate receives a message with respect to any of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill and agree to or request a conference, as appropriate, with the House on the disagreeing votes of the two houses; that the Chair be authorized to appoint conferees; and that the foregoing occur without any intervening action or debate.

MORNING BUSINESS

Mr. WARNER. Mr. President, if there is nothing further on the authorization bill, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each.

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

VICTIMS OF GUN VIOLENCE

Mr. DASCHLE. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read some of the names of those who lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

July 12, 1999:

Craig Briskey, 15, Atlanta, GA; Deleane Briskey, 33, Atlanta, GA; Torsha Briskey, 16, Atlanta, GA; Darius Cox, 31, Baltimore, MD; Willie Dampier, 31, Lansing, MI; Albert Fain, 25, Cincinnati, OH; Victor Gonzalez, 20, Holyoke, MA; Larry W. Gray, 52, Memphis, TN; Arvell Henderson, 28, St. Louis, MO; Essie Hugley, 37, Atlanta, GA; Wardell L. Jackson, 19, Chicago, IL; William Kuhn, 25, Pittsburgh, PA; Antoine Lucas, 9, Atlanta, GA; David Antonio Lucas, 13, Atlanta, GA; Edgar McDaniel, 34, Atlanta, GA; Sims Miller, 32, St. Louis, MO; Erica Reyes, 20, Holyoke, MA; Darryl Solomon, 28, Detroit, MI; James Sweeden, 48, Dallas, TX; Anthony White, Detroit, MI; Darrell Lewis White, 28, Memphis, TN; Unidentified male, 15, Chicago, IL.

Deleane Brisky from Atlanta was one of six people I mentioned who was shot and killed one year ago today. On that day, her ex-boyfriend burst into her home, killed her, her sister and four of her six children. The gunman then shot and wounded her 11-year-old son Santonio, who was hiding in a closet, before turning the gun on himself.

The time has come to enact sensible gun legislation. These people, who lost their lives in tragic acts of gun violence, are a reminder of why we need to take action now.

INTEGRATED GASIFICATION COMBINED CYCLE (IGCC) SYSTEM

Mr. SPECTER. Mr. President, Air Products & Chemicals, Inc. of Allentown, Pennsylvania and an industrial team are developing a unique oxygen-producing technology based on high-temperature, ion transport membranes (ITM). The technology, known as ITM Oxygen, would be combined with an integrated gasification combined cycle (IGCC) system to produce oxygen and electric power for the iron/steel; glass, pulp and paper; and chemicals and refining industries. The ITM Oxygen project is a cornerstone project in the Department of Energy's (DOE) Vision 21 program and has the potential to significantly reduce the cost of so-called ''tonnage oxygen'' plants for IGCC systems.

Working in partnership with DOE's National Energy Technology Laboratory, the first of three phases of this $24.8 million, 50 percent cost-shared research program will be completed in September 2001. Research and development conducted as part of phase 1 of the ITM Oxygen program has addressed the high-risk materials, fabrication and engineering issues needed to develop the ITM Oxygen technology to the proof-of-concept point. In phase 2, a full-scale ITM Oxygen module will be tested and will be followed by further scale-up to test the production and integration of multiple full-scale ITM modules. In the final phase, a pre-commercial demonstration unit will be designed, constructed, integrated with a gas turbine and tested at a suitable field site. At the end of phase 3, it is expected that sufficient aspects of the technology will have been demonstrated to enable industrial commercialization.

I thank the Senator from Washington for adding $3.2 million to Department of Energy's IGCC. I also understand that the House of Representatives added $3.2 million to the FY01 budget request for IGCC without designating any one project to receive the increased funding. As part of its FY01 budget, DOE requested $2.2 million as part of its $32 million IGCC budget to complete phase 1 of ITM Oxygen.

Now I would urge the Department of Energy and the National Energy Technology Laboratory to provide $2 million of the $3.2 million as an increase to the FY01 budget request for IGCC to allow the programs second phase to begin in FY01. This additional funding would allow the ITM Oxygen team to have a smooth transition to the program's second phase and to level over future years the DOE cost share needed to maintain the program's schedule. This additional funding would also allow the ITM Oxygen team to make an early commitment to accelerate construction of the test facility and the full-scale ITM Oxygen module. Accelerating this program makes sound business sense. Now I am confident that DOE and the National Energy laboratory will have the funding to do this. I urge them to work with the ITM Oxygen team and make it happen.

JUDICIAL NOMINATIONS IN THE 106TH CONGRESS

Mr. LEAHY. Mr. President, I am concerned at the continuing lack of any real, strong effort to confirm Federal judges this year compared to the situation in the last year of President Bush's term in office with a Democratic controlled Senate. We confirmed 66 judges—actually confirmed judges and had hearings right through September. Now we have very, very few hearings.

While I am glad to see the Judiciary Committee moving forward with a few of the many qualified judicial nominees to fill the scores of vacancies that continue to plague our Federal courts, I am disappointed that there were no nominees to the Court of Appeals included at this hearing. I have said since the beginning of this year that the American people should measure our progress by our treatment of the many qualified nominees, including outstanding women and minorities, to the Court of Appeals around the country. The committee and the Senate are falling well short of the mark.

With 21 vacancies on the Federal appellate courts across the country, and nearly half of the total judicial emergency vacancies in the Federal courts system in our appellate courts, our courts of appeals are being denied the resources that they need. Their ability to administer justice for the American people is being hurt. There continue to be multiple vacancies on the Fourth, Fifth, Sixth, Ninth, Tenth and District of Columbia Circuits. The vacancy rate for our courts of appeals is more than 11 percent nationwide—and that does not begin to take into account the additional judgeships requested by the

Judicial Conference to handle their increased workloads. If we added the 11 additional appellate judges being requested, the vacancy rate would be 16 percent. Still, not a single qualified candidate for one of these vacancies on our Federal appellate courts is being heard today.

At our first executive business meeting of the year, I noted the opportunity we had to make bipartisan strides toward easing the vacancy crisis in our nation's Federal courts. I believed that a confirmation total of 65 by the end of the year was achievable if we made the effort, exhibited the commitment, and did the work that was needed to be done. I urged that we proceed promptly with confirmations of a number of outstanding nominations to the court of appeals, including qualified minority and women candidates. Unfortunately, that is not what has happened.

Just as there was no appellate court nominee included in the April confirmation hearing, there is no appellate court nominee included today. Indeed, this committee has not reported a nomination to a court of appeals vacancy since April 12, and it has reported only two all year. The committee has yet to report the nomination of Allen Snyder to the District of Columbia Circuit, although his hearing was 8 weeks ago; the nomination of Bonnie Campbell to the Eighth Circuit, although her hearing was 6 weeks ago; or the nomination of Judge Johnnie Rawlinson, although her hearing was 4 weeks ago. Left waiting for a hearing are a number of outstanding nominees, including Judge Helene White for a judicial emergency vacancy in the Sixth Circuit; Judge James Wynn, Jr., for a judicial emergency vacancy in the Fourth Circuit; Kathleen McCree Lewis, another outstanding nominee to the multiple vacancies on the Sixth Circuit; Enrique Moreno, for a judicial emergency vacancy in the Fifth Circuit; Elena Kagan, to one of the multiple vacancies on the District of Columbia Circuit; and Roger L. Gregory, an outstanding nominee to another judicial emergency vacancy in the Fourth Circuit.

I deeply regret that the Senate adjourned last November and left the Fifth Circuit to deal with the crisis in the Federal administration of justice in Texas, Louisiana and Mississippi without the resources that it desperately needs. It is a situation that I wished we had confronted by expediting consideration of nominations to that court last year. I still hope that the Senate will consider them this year to help that circuit.

I continue to urge the Senate to meet its responsibilities to all nominees, including women and minorities. That all of these highly qualified nominees are being needlessly delayed is most regrettable. The Senate should join with the President to confirm these well-qualified, diverse and fair-minded nominees to fulfill the needs of the Federal courts around the country.

During the committee's business meeting on June 27, Chairman HATCH noted that the Senate has confirmed seven nominees to the courts of appeals this year—as if we had done our job and need do no more. What he failed to note is that all seven were holdovers who had been nominated in prior years. Five of the seven were reported to the Senate for action before this year, and two had to be reported twice before the Senate would vote on them. The Senate took more than 49 months to confirm Judge Richard Paez, who was nominated back in January 1996, and more than 26 months to confirm Marsha Berzon, who was nominated in January 1998. Tim Dyk, who was nominated in April 1998, was confirmed after more than two years. This is hardly a record of prompt action of which anyone can be proud.

Chairman HATCH then compared this year's total against totals from other presidential election years. The only year to which this can be favorably compared was 1996 when the Republican majority in the Senate refused to confirm even a single appellate court judge to the Federal bench. Again, that is hardly a comparison in which to take pride. Let us compare to the year 1992, in which a Democratic majority in the Senate confirmed 11 Court of Appeals nominees during a Republican President's last year in office among the 66 judicial confirmations for the year. That year, the committee held three hearings in July, two in August, and a final hearing for judicial nominees in September. The seven judicial nominees included in the September 24 hearing were all confirmed before adjournment that year—including a court of appeals nominee. We have a long way to go before we can think about resting on any laurels.

Having begun so slowly in the first half of this year, we have much more to do before the Senate takes its final action on judicial nominees this year. We should be considering 20 to 30 more judges this year, including at least another half dozen for the court of appeals. We cannot afford to follow the ''Thurmond Rule'' and stop acting on these nominees now in anticipation of the presidential election in November. We must use all the time until adjournment to remedy the vacancies that have been perpetuated on the courts to the detriment of the American people and the administration of justice. That should be a top priority for the Senate for the rest of this year. In the last three months in session in 1992, between July 12 and October 8, 1992, the Senate confirmed 32 judicial nominations. I will work with Chairman HATCH to match that record.

One of our most important constitutional responsibilities as United States Senators is to advise and consent on the scores of judicial nominations sent to us to fill the vacancies on the federal courts around the country. I look forward to our next confirmation hearing and to the inclusion of qualified candidates for some of the many vacancies on our Federal Court of Appeals.

DRUNK DRIVING PER SE STANDARD

Mr. DEWINE. Mr. President, now that we have passed the Transportation Appropriations bill and it heads to the conference committee, I strongly urge my colleagues to support in conference a provision in the bill that would encourage states to adopt a .08 Blood-Alcohol Concentration (BAC) level as the per se standard for drunk driving.

This issue is not new to the Senate. In 1998, as the Senate considered the Transportation Equity Act for the 21st Century, or TEA 21, 62 Senators agreed to an almost identical provision—an amendment that Senator LAUTENBERG and I offered to make .08 the law of the land. Sixty-two Senators, Mr. President, agreed that we needed this law because it would save lives.

We made it clear during the debate in 1998 that .08, by itself, would not solve the problem of drunk driving. However, .08, along with a number of other steps taken over the years to combat drunk driving, would save between 500 and 600 lives annually. Let me repeat that, Mr. President—if we add .08 to all the other things we are doing to combat drunk driving—we would save between 500 and 600 more lives every year.

On March 4, 1998—when the Senate voted 62 to 32 in favor of a .08 law—the United States Senate spoke loud and clear. This body said that .08 should be the uniform standard on all highways in this country. The United States Senate said that we believe .08 will save lives. The United States Senate said that it makes sense to have uniform laws, so that when a family drives from one state to another, the same standards—the same tough laws—will apply.

But sadly, Mr. President, despite the overwhelming vote in the Senate—despite the United States Senate's very strong belief that .08 laws will save lives—this provision was dropped in conference. The conferees replaced it with an enhanced incentive grant program that has proven to be ineffective. Since this grant program has been in place, only one state—Texas—has taken advantage of the incentives and put a .08 law into effect.

So, here we are again—back at square one, making the same arguments we made two years ago—the same arguments that compelled 62 United States Senators to vote in favor of .08 legislation. Let's not make the same mistake this time, Mr. President. The Senate kept the .08 provision in the Transportation Appropriations bill we passed last week—this time, we need to do the right thing and keep the provision in the conference report and make it law once and for all.

The case for a .08 law in every state is as compelling today as it was two years ago when we voted on this. The fact is that a person with a .08 Blood-

Alcohol Concentration level is seriously impaired. When a person reaches .08, his/her vision, balance, reaction time, hearing, judgement, and self-control are severely impaired. Moreover, critical driving tasks, such as concentrated attention, speed control, braking, steering, gear-changing and lane-tracking, are negatively impacted at .08.

But, beyond these facts, there are other scientifically sound reasons to enact a national .08 standard. First, the risk of being in a crash increases gradually with each blood-alcohol level, but then rises rapidly after a driver reaches or exceeds .08 compared to drivers with no alcohol in their systems. The National Highway Traffic Safety Administration (NHTSA) reports that in single vehicle crashes, the relative fatality risk for drivers with BAC's between .05 and .09 is over eleven times greater than for drivers with BAC's of zero.

Second, .08 BAC laws have proven results in reducing crashes and fatalities. Back in 1998, when Senator LAUTENBERG and I, argued in support of a national .08 law, we cited a study that compared states with .08 BAC laws and neighboring states with .10 BAC laws. That study found that .08 laws reduced the overall incidence of alcohol fatalities by 16% and also reduced fatalities at higher BAC levels. During our debate two years ago, the accuracy of this report was called into question by opponents of our amendment. Since then, a number of different studies have verified the findings of the original Boston University study. I will talk about these new studies shortly.

Third and finally, according to NHTSA, crash statistics show that even heavy drinkers, who account for a large percentage of drunk driving arrests, are less likely to drink and drive because of the general deterrent effect of .08.

Right now, Mr. President, we have a patchwork pattern of state drunk driving laws. Forty-eight states have a per se BAC law in effect. Thirty-one of these states have a .10 per se standard. Seventeen have enacted a .08 level. With all due respect, Mr. President, this doesn't make sense. The opponents of the .08 level cannot convince me that simply crossing a state border will make a drunk sober. For instance, just crossing the Wilson Bridge from Virginia into Maryland would not make a drunk driver sober.

This states' rights debate reminds me of what Ronald Reagan said when he signed the minimum drinking age bill: ''The problem is bigger than the individual states . . . . It's a grave national problem, and it touches all our lives. With the problem so clear-cut and the proven solution at hand, we have no misgiving about this judicious use of federal power.''

The Administration has set a very laudable goal of reducing alcohol-related motor vehicle fatalities to no more than 11,000 by the year 2005. Mr. President, this goal is going to be very difficult to achieve. But, I believe that recent history provides a road map for how to achieve this goal. Beginning in the late 1970's, a national movement began to change our country's attitudes toward drinking and driving. This movement has helped spur state legislatures to enact stronger drunk driving laws; it led to tougher enforcement; and it caused people to think twice before drinking and driving. In fact, it was this national movement that helped me get a tough DUI law passed in my home state of Ohio back in 1982. In short, these efforts have helped reverse attitudes in this country about drinking and driving—it is now no longer ''cool'' to drink and drive.

The reduction in alcohol-related fatalities since that time is not attributable to one single thing. Rather, it was the result of a whole series of actions taken by state and federal government and the tireless efforts of many organizations, such as Mothers Against Drunk Driving, Students Against Drunk Driving, Advocates for Highway and Auto Safety, and many others.

Despite all of our past efforts, alcohol involvement is still the single greatest factor in motor vehicle deaths and injuries. We must continue to take small, but effective and proven steps forward in the battle against drunk driving. Passage of a national .08 blood alcohol standard is one of these small, effective steps.

Mr. President, how do we know that .08 is an effective measure in combating drunk driving? Earlier I cited a Boston University study which showed that, if all 50 states set .08 as a standard, between 500 and 600 lives would be saved annually. A number of my colleagues questioned that study during the Senate debate back in 1998. But, we don't need to rely on that one single study.

Since we last debated .08, at least three studies have been published on this issue. The most comprehensive of these, conducted by the Pacific Institute for Research and Evaluation, concluded the following: ''With regard to .08 BAC laws, the results suggested that these laws were associated with 8% reductions in the involvement of both high BAC and lower BAC drivers in fatal crashes. Combining the results for the high and low BAC drivers, it is estimated that 275 lives were saved by .08 BAC laws in 1997. If all 50 states (rather than 15 states) had such laws in place in 1997, an additional 590 lives could have been saved.'' Let me repeat that. ''If all 50 states . . . had such laws in place in 1997, an additional 590 lives could have been saved.''

A second study, Mr. President, conducted by NHTSA, looked at eleven states with ''sufficient experience with .08 BAC laws to conduct a meaningful analysis.'' This study found that ''. . . the rate of alcohol involvement in fatal crashes declined in eight of the states studied after the effective date of a .08 BAC law. Further, .08 BAC laws were associated with significant reductions in alcohol-related fatalities, alone or in conjunction with administrative license revocation laws, in seven of eleven states. In five of these seven states, implementation of the .08 BAC law, itself, was followed by significantly lower rates of alcohol involvement among fatalities.''

Finally, the third most recent study, conducted by the Highway Safety Research Center at the University of North Carolina, evaluated the effects of North Carolina's .08 BAC law. Opponents of this amendment use this study as supposed proof that .08 does not work. But, here is what the study concluded: ''It appears that lowering the BAC limit to .08% in North Carolina did not have any clear effect on alcohol-related crashes. The existing downward trend in alcohol-involvement among all crashes and among more serious crashes continued . . .'' In other words, .08 when enacted by a state that is progressive and aggressive in its efforts to deal with drinking drivers helps to continue existing downward trends in alcohol involvement in fatal crashes.

Mr. President, some skeptics still might not be convinced of the positive effects of a national .08 BAC standard. The General Accounting Office (GAO) conducted a critical review of these studies. GAO concluded that there are ''strong indications that .08 BAC laws, in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement can save lives.'' The U.S. Department of Transportation (DOT), in its response to the GAO report, concluded that ''significant reductions have been found in most states;'' that ''consistent evidence exists that .08 BAC laws, at a minimum, add to the effectiveness of laws and activities already in place;'' and that ''a persuasive body of evidence is now available to support the Department's position on .08 BAC laws.'' The GAO responded to DOT, stating: ''Overall, we believe that DOT's assessment of the effectiveness of .08 BAC laws is fairly consistent with our own.''

The fact is that since we last debated this issue, all of these published studies have reached the same conclusion: .08 laws will save lives. I urge my colleagues not to be fooled by the opponents' rhetoric during conference negotiations and keep the provision in tact. The opponents attempt to demean .08 laws by saying they will not ''solve the problem of drunk driving.'' These opponents—in the way they use the word ''solve''—are correct: .08 is not a silver bullet. By itself, it will not end drunk driving. However, it is exactly what proponents have always said it was—another proven effective step that we can take to reduce drunk driving injuries and fatalities. Make no mistake—.08 BAC laws will save lives.

I want to conclude by thanking my friend from New Jersey, Senator LAUTENBERG, for his continued dedication to this issue. His hard work and perseverance have helped bring us to the point today where the Senate once again has passed legislation to strongly encourage states to enact this life-saving measure. I would also like to thank Senator RICHARD SHELBY, the Chairman of the Subcommittee, for his support of the .08 measure as the Transportation Appropriations bill was being crafting; and Senator JOHN WARNER for his continued dedication to reducing drunk driving.

Mr. President, .08 is definitely a legislative effort worth fighting for, and I hope we will succeed this time in retaining the provision in the conference report. I thank the Chair and yield the floor.

PROJECT EXILE: THE SAFE STREETS AND NEIGHBORHOODS ACT

Mr. DEWINE. Mr. President, there has been a lot of talk recently in this country about gun control. It is no secret that gun control measures are very controversial and are subject to a great deal of debate—as they should be. But, we have to remember that in the heat of this debate, we must not lose sight of the real issue at hand—and that's gun violence. There is nothing controversial about protecting our children, our families, our communities by keeping guns out of the wrong hands—keeping guns out of the hands of criminals and violent offenders—not law-abiding citizens, Mr. President, but criminals.

These criminals with guns are killing our children. They're killing our young adults. They're killing our friends and our neighbors. I am here on the floor today because I am very troubled by this, Mr. President, and I am troubled by the current Administration's handling of crimes committed with guns. Let me explain.

Right now, current law makes it a federal crime for a convicted felon to ever possess a firearm. So, once a person is convicted of a felony, that person can never again own a gun. It is against federal law to use a gun to commit any crime, regardless of if that crime is otherwise a state crime. And, under federal law, the sentences for these kinds of crimes are mandatory—no second chance, no parole.

In the late 1980's, President Bush made enforcement of these gun laws a priority. His Justice Department told local sheriffs, chiefs of police, and prosecutors that if they caught a felon with a gun—or if they caught someone committing a crime in which a gun was used—the federal government would take the case, and put that criminal behind bars for at least five years—no exceptions. During the last 18 months of the Bush Administration, more than 2,000 criminals with guns were put behind bars.

Consistent, effective enforcement ended once the current Administration took office. Between 1992 and 1998, for example, the number of gun cases filed for prosecution dropped from 7,048 to about 3,807—that's a 46 percent decrease. As a result, the number of federal criminal convictions for firearms offenses has fallen dramatically.

For six years, the Justice Department refused to prosecute those criminals who use a gun to commit state crimes—even though the use of a gun to commit those crimes could be charged as a federal crime. The only cases they would prosecute were those in which a federal crime was already being committed and a gun was used in the commission of that crime.

Even worse, to this very day, some federal gun laws are almost never enforced by this Administration. While Brady law background checks have stopped nearly 300,000 prohibited purchasers of firearms from buying guns, less than .1 percent have actually been prosecuted.

I have repeatedly questioned Attorney General Reno and her deputies about the decline in prosecutions, and their standard response is that the Department of Justice is focusing on so-called ''high-level'' offenders, instead of ''low-level'' offenders, who commit one crime with a gun. They say that they want to prosecute the few sharks at the top rather than the numerous guppies at the bottom of the criminal enterprise. With all due respect, that's nonsense.

Attorney General Reno recently said that she would aggressively prosecute armed criminals, but only if they commit a violent crime. Again, that type of law enforcement policy just doesn't make sense. Current law prohibits violent felons from possessing guns, and so we should aggressively prosecute these cases to take guns away from violent criminals—before they use those guns to injure and kill people. It's that simple.

Mr. President, we have often heard that six percent of the criminals commit 70 percent of the crimes—six percent of the criminals commit 70 percent of the crimes. Well, if you have a violent criminal who illegally possesses a gun, I can bet you that he is part of that six percent! He's one of the bad guys—and we should put him away before he has a chance to use that gun again.

Mr. President, we need to take all of these armed criminals off the streets. That is how we can reduce crime and save lives. Why wait for armed criminals to commit more and more heinous crimes before we prosecute them to the full extent of the law? Why wait, when we can do something before another Ohioan—or any American—becomes a victim of gun violence?

We shouldn't wait, Mr. President. That's why the House of Representatives recently passed legislation that would increase gun prosecutions. And that's why, along with a number of my colleagues, including Senators ABRAHAM, SANTORUM, WARNER, SESSIONS, HELMS, ASHCROFT, and HUTCHINSON from Arkansas, we have introduced the companion to the House-passed bill—a bill that offers the kind of practical solution we need to thwart gun crimes.

Our bill—called ''Project Exile: The Safe Streets and Neighbors Act of 2000''—would provide $100 million in grants over five years to those states that agree to enact their own mandatory minimum five-year jail sentences for armed criminals who use or possess an illegal gun. As an alternative, a state can also qualify for the grants by turning armed criminals over for federal prosecution under existing firearms laws. Therefore, a state has the option of prosecuting armed felons in state or federal courts. Qualifying states can use their grants for any variety of purposes that would strengthen their criminal or juvenile justice systems' ability to deal with violent criminals.

This approach works, Mr. President. In Virginia, for example, the state instituted a program in 1997, also called ''Project Exile.'' Their program is based on one simple principle: Any criminal caught with a gun will serve a minimum mandatory sentence of five years in prison. Period. End of story. As a result, gun-toting criminals are being prosecuted six times faster, and serving sentences up to four times longer than they otherwise would under state law. Moreover, the homicide rate in Richmond already has dropped 40 percent!

Every state should have the opportunity to implement Project Exile in their high-crime communities. The bill that we have introduced will make this proven, commonsense approach to reducing gun violence available to every state. It will take guns out of the hands of violent criminals. It will make our neighborhoods safer. It will save lives.

I urge my colleagues on both sides of the aisle to support and pass this legislation. It's time to protect our children, our families, and our country from armed and dangerous criminals. It's time to get guns out of the wrong hands. It's time we take back our neighborhoods and our communities from the criminals and take action to stop gun-toting criminals.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, July 11, 2000, the Federal debt stood at $5,665,065,032,353.04 (Five trillion, six hundred sixty-five billion, sixty-five million, thirty-two thousand, three hundred fifty-three dollars and four cents).

Five years ago, July 11, 1995, the Federal debt stood at $4,925,464,000,000 (Four trillion, nine hundred twenty-five billion, four hundred sixty-four million).

Ten years ago, July 11, 1990, the Federal debt stood at $3,149,532,000,000

(Three trillion, one hundred forty-nine billion, five hundred thirty-two million).

Fifteen years ago, July 11, 1985, the Federal debt stood at $1,793,175,000,000 (One trillion, seven hundred ninety-three billion, one hundred seventy-five million).

Twenty-five years ago, July 11, 1975, the Federal debt stood at $531,808,000,000 (Five hundred thirty-one billion, eight hundred eight million) which reflects a debt increase of more than $5 trillion—$5,133,257,032,353.04 (Five trillion, one hundred thirty-three billion, two hundred fifty-seven million, thirty-two thousand, three hundred fifty-three dollars and four cents) during the past 25 years.

ADDITIONAL STATEMENTS

200TH ANNIVERSARY OF THE TOWN OF JACKSON, NEW HAMPSHIRE

● Mr. GREGG. Mr. President, I ask my Senate colleagues to join me in commemorating the Town of Jackson, New Hampshire on the occasion of its Bicentennial and in appreciation of the contributions its citizens have made to our nation. Jackson is the only New Hampshire town celebrating its Bicentennial in the Year 2000.

Founded by settlers as New Madbury circa 1775 and incorporated on December 4, 1800, Jackson proudly traces its roots deep into the history of our state and nation. Originally named Adams, in honor of then President John Adams, Jackson selected its current name on July 4, 1829 to honor President Andrew Jackson. It is here, settled gently into the awe inspiring beauty of New Hampshire's Presidential Mountain Range, at the foot of Mount Washington, where Jackson, a quiet farming community with an abundance of open space and spectacular scenic views, evolved into a popular American resort destination for artists and summer vacationers.

The centuries have been bridged by generations of old and new Jackson families. Today, visitors come year round, joining local residents, to enjoy its pastoral vistas, timeless ridge lines, wild and scenic rivers, covered bridge, water falls, white steepled church, mountains, rolling farmland and outdoor recreation amidst the magnificence and splendor of New Hampshire's world famous White Mountain National Forest.

On the occasion of its 200th Birthday in the Year 2000 please join me to proudly salute and celebrate Jackson, New Hampshire, a classic American community with a unique character, spirit and old world charm which has enriched the State of New Hampshire and our Nation.●

MESSAGES FROM THE HOUSE

At 11:22 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 bills, in which it requests the concurrence of the Senate:

H.R. 894: An act to encourage States to incarcerate individuals convicted of murder, rape, or child molestation.

H.R. 3909: An act to designate the facility of the United States Postal Service located at 4691 South Cottage Grove Avenue in Chicago, Illinois, as the ''Henry W. McGee Post Office Building.''

H.R. 4063: An act to establish the Rosie the Riveter-World War II Home Front National Historical Park in the State of California, and for other purposes.

H.R. 4391: An act to amend title 4 of the United States Code to establish sourcing requirements for State and local taxation of mobile telecommunications services.

H.R. 4442: An act to establish a commission to promote awareness of the National Wildlife Refuge System among the American public as the System celebrates its centennial anniversary in 2003, and for other purposes.

H.R. 4461: An act making appropriations for Agriculture, Rural Development, Food and Drug Administration and Related Agencies programs for the fiscal year ending September 30, 2001, and for other purposes.

H.R. 4528: An act to establish an undergraduate grant program of the Department of State to assist students of limited financial means from the United States to pursue studies at foreign institutions of higher education.

H.R. 4579: An act to provide for the exchange of certain lands within the State of Utah.

H.R. 4658: An act to designate the facility of the United States Postal Service located at 301 Green Street in Fayetteville, North Carolina, as the ''J.L. Dawkins Post Office Building.''

H.R. 4681: An act to provide for the adjustment of status of certain Syrian nationals.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 253: Concurrent resolution expressing the sense of the Congress strongly objecting to any effort to expel the Holy See from the United Nations as a state participant by removing its status as a Permanent Observer.

H. Con. Res. 348: Concurrent resolution expressing condemnation of the use of children as soldiers and expressing the belief that the United States should support and, where possible, lead efforts to end this abuse of human rights.

At 4:50 p.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 bill, in which it requests the concurrence of the Senate:

H.R. 4810. An act to provide for reconciliation pursuant to section 103(a)(1) of the concurrent resolution on the budget for fiscal year 2001.

At 9:40 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House disagreed to the amendment of the Senate to the bill (H.R. 4576) making appropriations for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. LEWIS of California, Mr. YOUNG of Florida, Mr. SKEEN, Mr. HOBSON, Mr. BONILLA, Mr. NETHERCUTT, Mr. ISTOOK, Mr. CUNNINGHAM, Mr. DICKEY, Mr. FRELINGHUYSEN, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. DIXON, Mr. VISCLOSKY, Mr. MORAN of Virginia, and Mr. OBEY, as the managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, without amendment:

S. 1892. An act to authorize the acquisition of the Valles Caldera, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3909. An act to designate the facility of the United States Postal Service located at 4601 South Cottage Grove Avenue in Chicago, Illinois, as the ''Henry W. McGee Post Office Building''; to the Committee on Governmental Affairs.

H.R. 4063. An act to establish the Rosie the Riveter-World War II Home Front National Historical Park in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4391. An act to amend title 4 of the United States Code to establish sourcing requirements for State and local taxation of mobile telecommunication services.

H.R. 4442. An act to establish a commission to promote awareness of the National Wildlife Refuge System among the American public as the System celebrates its centennial anniversary in 2003, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4528. An act to establish an undergraduate grant program of the Department of State to assist students of limited financial means from the United States to pursue studies at foreign institutions of higher education; to the Committee on Health, Education, Labor, and Pensions.

H.R. 4579. An act to provide for the exchange of certain lands within the State of Utah; to the Committee on Energy and Natural Resources.

H.R. 4658. An act to designate the facility of the United States Postal Service located at 301 Green Street in Fayetteville, North Carolina, as the ''J.L. Dawkins Post Office Building''; to the Committee on Governmental Affairs.

H.R. 4681. An act to provide for the adjustment of status of certain Syrian nationals.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 348. Concurrent resolution expressing condemnation of the use of children as soldiers and expressing the belief that the United States should support and, where possible, lead efforts to end this abuse of human rights; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4461. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration and Related Agencies programs for the fiscal year ending September 30, 2001, and for other purposes.

H.R. 4810. An act to provide for reconciliation pursuant to section 103(a)(1) of the concurrent resolution on the budget for fiscal year 2001.

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 253. Concurrent resolution expressing the sense of the Congress strongly objecting to any effort to expel the Holy See from the United Nations as a state participant by removing its status as a Permanent Observer.

MEASURE READ THE FIRST TIME

The following bill was read the first time by unanimous consent:

H.R. 894. An act to encourage States to incarcerate individuals convicted of murder, rape, or child molestation.

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–9625. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report entitled ''National Water Quality Inventory for 1998''; to the Committee on Environment and Public Works.

EC–9626. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Elimination of the Requirement for Noncombustible Fire Barrier Penetration Seal Materials and Other Minor Changes'' (RIN 3150–AG22) received on June 21, 2000; to the Committee on Environment and Public Works.

EC–9627. A communication from the Director of the Office of Congressional Affairs, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: VSC–24 Revision'' received on June 23, 2000; to the Committee on Environment and Public Works.

EC–9628. A communication from the Director of the Office of Congressional Affairs, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: Standardized NUHOMS–24P and NUHOMS–52B Revision'' received on June 23, 2000; to the Committee on Environment and Public Works.

EC–9629. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report concerning the ready reserve status of the Hopper Dredge Wheeler; to the Committee on Environment and Public Works.

EC–9630. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report entitled ''Navigation Improvements Final Interim Feasibility and Environmental Assessment''; to the Committee on Environment and Public Works.

EC–9631. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report concerning a project for ecosystem and wetland restoration at the Hamilton Army Airfield; to the Committee on Environment and Public Works.

EC–9632. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report concerning a hurricane and storm damage reduction and ecosystem restoration project for Townsends Inlet to Cape May Inlet, New Jersey; to the Committee on Environment and Public Works.

EC–9633. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report concerning a project for hurricane and storm damage reduction for the communities of Bethany Beach and South Bethany, Sussex County, Delaware; to the Committee on Environment and Public Works.

EC–9634. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting the report on portability of Tricare Prime Benefits; to the Committee on Armed Services.

EC–9635. A communication from the Director of Defense Procurement, (OUSD (AT&L) DP (DAR)), Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Reporting Requirements Update'' (DFARS Case 2000–D001) received on June 21, 2000; to the Committee on Armed Services.

EC–9636. A communication from the Director of Defense Procurement, (OUSD (AT&L) DP (DAR)), Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Uncompensated Overtime Source Selection Factor'' (DFARS Case 2000–D013) received on June 21, 2000; to the Committee on Armed Services.

EC–9637. A communication from the Director of Defense Procurement, (OUSD (AT&L) DP (DAR)), Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Production Surveillance and Reporting'' (DFARS Case 99–D026) received on June 21, 2000; to the Committee on Armed Services.

EC–9638. A communication from the Under Secretary of the Navy, Department of Defense, transmitting a report relative to the Navy Marine Corps Intranet services; to the Committee on Armed Services.

EC–9639. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of the Reserve Forces Policy Board for fiscal year 1999; to the Committee on Armed Services.

EC–9640. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to the Military Health System; to the Committee on Armed Services.

EC–9641. A communication from the Assistant General counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''DOE Standard; Nuclear Explosive Safety Study Process'' (DOE–STD–3015–97) received on June 29, 2000; to the Committee on Armed Services.

EC–9642. A communication from the Secretary of Defense, transmitting, pursuant to law, the report relative to the demilitarization and disposal of conventional munitions, rockets, and explosives; to the Committee on Armed Services.

EC–9643. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Sunscreen Drug Products for Over-the-Counter Human Use; Final Monograph; Extension of Effective Date; Reopening of Administrative Record'' (RIN 78N–0038) received on June 21, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9644. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date; Reopening of Administrative Record'' (RIN 0905–AC81) received on June 21, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9645. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adhesives and Components of Coatings; Technical Amendment'' (RIN 92F–0043) received on June 21, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9646. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''General Hospital and Personal use Devices; Classification of the Subcutaneous, Implanted, Intravascular Infusion Port and Catheter and the Percutaneous, Implanted, Long-term Intravascular Catheter'' (RIN 99N–2099) received on June 21, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9647. A communication from the Assistant General Counsel for Regulations, Office of Student Financial Assistance, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Student Assistance General Provisions, Federal Family Educational Loan Program, William D. Ford Federal Direct Loan Program, and State Student Incentive Grant Program'' received on June 21, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9648. A communication from the Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Native Hawaiian Curriculum Development, Teacher Training and Recruitment Training'' received on June 21, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9649. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the report on the Railroad Unemployment Insurance System for the calendar year 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9650. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law the report entitled ''Twenty-First Actuarial Valuation of the Assets and Liabilities Under the Railroad Retirement Acts as of December 31, 1998''; to the Committee on Health, Education, Labor, and Pensions.

EC–9651. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Ophthalmic Drug Products for Over-the-Counter Human Use; Amendment to Final Monograph'' (RIN 0910–AA01) received on June 29, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9652. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Over-the-Counter Human Drugs; Labeling Requirements; Partial Extension of Compliance Dates'' (RIN 0910–AA79) received on June 29, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9653. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers: Technical Amendment'' (RIN 99F–1421) received on June 29, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9654. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Anesthesiology Devices; Classification of Devices to Relieve Upper Airway Obstruction'' (RIN 00P–1117) received on June 29, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9655. A communication from the Administrator of the Office of Workforce Security, Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Unemployment Insurance Program Letters 34–97 and 25–00'' received on June 29, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9656. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled ''Assets for Independence Act Amendments of 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–9657. A communication from the Assistant General Counsel for Regulatory Services, Office of Management, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Final Regulations—Family Educational Rights and Privacy'' received on July 5, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9658. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Paper and Paperboard Components'' (RIN 94F–0185 and 95F–0111) received on July 10, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–9659. A communication from the Program Manager, Bureau of Alcohol, Tobacco and Firearms, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components, and Ammunition'' (RIN 1512–AC02) received on June 20, 2000; to the Committee on Finance.

EC–9660. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidelines for the Imposition and Mitigation of Penalties for Violation of 19 U.S.C. 1592'' (RIN 1515–AC08) received on June 20, 2000; to the Committee on Finance.

EC–9661. A communication from the President of the United States, transmitting, pursuant to law, a notification relative to the International Trade Commission; to the Committee on Finance.

EC–9662. A communication from Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Modification of Rev. Proc. 99–18 (Sections 1001 and 1275)'' (Revenue Procedure 2000–29) received on June 23, 2000; to the Committee on Finance.

EC–9663. A communication from Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 2000–31) received on June 26, 2000; to the Committee on Finance.

EC–9664. A communication from Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 2000–35: Effect of Reorganization of the Office of Chief Counsel on Letter Ruling and Technical Advice Programs'' (OGI–111483–00) received on June 26, 2000; to the Committee on Finance.

EC–9665. A communication from Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Proc. 2000–30 Bank Premiums'' (Rev. Rul 2000–30) received on June 26, 2000; to the Committee on Finance.

EC–9666. A communication from the Social Security Administration Regulations Officer, transmitting, pursuant to law, the report of a rule entitled ''Denial of Supplemental Security Income (SSI) Benefits for Fugitive Felons and Probation and Parole Violators'' (RIN 0960–AE77) received on June 27, 2000; to the Committee on Finance.

EC–9667. A communication from Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''April–June 2000 Bond Factor Amounts'' (Revenue Ruling 2000–31) received on June 27, 2000; to the Committee on Finance.

EC–9668. A communication from Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Rul. 2000–34 BLS–LIFO Department Store Indexes—May 2000'' (Rev. Rul 2000–34) received on June 29, 2000; to the Committee on Finance.

EC–9669. A communication from Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance Regarding Claims for Certain Income Tax Convention Benefits'' (RIN 1545–AV10(TD8889)) received on June 30, 2000; to the Committee on Finance.

EC–9670. A communication from the President of the United States, transmitting, pursuant to law, a report concerning emigration laws and policies of Armenia, Azerbaijan, Georgia, Kazakhstan, Moldova, The Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC–9671. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''TD: Definition of Grantor'' (RIN 1545–AX25 TD8890) received on July 5, 2000; to the Committee on Finance.

EC–9672. A communication from the Chief of the Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Country of Origin Marking Rules for Textiles and Textile Products Advanced in Value, Improved in Condition, Or Assembled Abroad'' (T.D. 00–44) received on July 6, 2000; to the Committee on Finance.

EC–9673. A communication from the President of the United States, transmitting, pursuant to law, a proclamation to amend the Generalized System of Preferences concerning Belarus; to the Committee on Finance.

EC–9674. A communication from the Regulations Officer of the Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Determining Disability and Blindness; Substantial Gainful Activity Guides; Final Rules'' (RIN 0960–AB73; 55A–147F) received on July 10, 2000.

EC–9675. A communication from the Regulations Officer of the Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Administrative Procedure for Imposing Penalties for False or Misleading Statements'' (RIN 0960–AF20) received on July 10, 2000.

EC–9676. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Targeted Jobs Tax Credit Settlement Announcement'' (Announcement 2000–58) received on July 10, 2000; to the Committee on Finance.

EC–9677. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''IRA income calculation'' (Notice 2000–39) received on July 10, 2000; to the Committee on Finance.

EC–9678. A communication from the Acting Chair of the Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D –2000–2001 Subsistence Taking of Fish and Wildlife Regulations'' (RIN 1018–AF74) received on June 21, 2000; to the Committee on Energy and Natural Resources.

EC–9679. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Supplementary Guidance and Design Experience for the Fusion Safety Standards DOE–STD–6002–96 and DOE–STD–6003–96'' (DOE–HDBK–6004–99) received on June 21, 2000; to the Committee on Energy and Natural Resources.

EC–9680. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Writer's Guide for Technical Procedures'' (DOE–STD–1029–92, Change Notice No. 1) received on June 21, 2000; to the Committee on Energy and Natural Resources.

EC–9681. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''DOE Handbook; Radiological Worker Training'' (DOE–HDBK–1130–98) received on June 21, 2000; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–549. A petition from a Member of the U.S. House of Representatives relative to the Environmental Protection Agency and the proposed cleanup plan for the Stauffer Superfund site in Tarpon Springs, Florida; to the Committee on Environment and Public Works.

POM–550. A petition from the U.S. Senators from the State of New York relative to the Environmental Protection Agency and ocean disposal criteria; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 2386: A bill to extend the Stamp Out Breast Cancer Act (Rept. No. 106–338).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1911: A bill to conserve Atlantic highly migratory species of fish, and for other purposes (Rept. No. 106–339).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1998: A bill to establish the Yuma Crossing National Heritage Area (Rept. No. 106–340).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 2247: A bill to establish the Wheeling National Heritage Area in the State of West Virginia, and for other purposes (Rept. No. 106–341).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 940: A bill to establish the Lackawanna Heritage Valley American Heritage Area (Rept. No. 106–342).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2787: A bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ROBB:

S. 2850. A bill to reduce illegal drug-related crimes in our Nation's communities by providing additional Federal funds to develop and implement community policing and prosecutorial initiatives that address problems associated with the production, manufacture, distribution, importation, and use of illegal drugs; to the Committee on the Judiciary.

By Mr. CLELAND (for himself and Mr. JEFFORDS):

S. 2851. A bill to require certain information from the President before certain deployments of the Armed Forces, and for other purposes; to the Committee on Foreign Relations.

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

S. 2852. A bill to provide for the adjustment of status of certain Syrian nationals; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 2853. A bill to amend the Internal Revenue Code of 1986 to allow distributions to be made from certain pension plans before the participant is served from employment; to the Committee on Finance.

By Mr. ALLARD:

S. 2854. A bill to suspend temporarily the duty on Fructooligosaccharides (FOS); to the Committee on Finance.

By Mr. TORRICELLI:

S. 2855. A bill to amend the Public Health Service Act to provide for the establishment of a national program of autism registries; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELMS:

S. 1856. A bill to provide for the establishment of a new international television service under the Broadcasting Board of Governors to replace Worldnet and BOA–TV to ensure that international television broadcasts of the United States Government effectively represent the United States and its policies; to the Committee on Foreign Relations.

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

S. 2857. A bill to amend title 11, United States Code, to exclude personally identifiable information from the assets of a debtor in bankruptcy; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ABRAHAM (for himself and Mrs. LINCOLN):

S. Con. Res. 130. Concurrent resolution establishing a special task force to recommend an appropriate recognition for the slave laborers who worked on the construction of the United States Capitol; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBB:

S. 2850. A bill to reduce illegal drug-related crimes in our Nation's communities by providing additional Federal funds to develop and implement community policing and prosecutorial initiatives that address problems associated with the production, manufacture, distribution, importation, and use of illegal drugs; to the Committee on the Judiciary.

THE COMMUNITY ORIENTED POLICING SERVICES AGAINST DRUGS ACT

Mr. ROBB. Mr. President, I have visited the Carver Neighborhood of Richmond in my state. This neighborhood is a low-income community that thanks to collaborative efforts among the community, city, and federal government, has seen a tremendous decrease in crime, helping to spur a major community revitalization.

We've seen this trend more and more in cities and communities across America. Much has been accomplished in our efforts to revitalize our communities—but more needs to be done. We should build on our past successes and focus our resources on keeping our children safe and our neighborhoods free of fear. We should take what we know works and apply it in our fight against illegal drugs.

It is in this spirit, Mr. President, that I rise to introduce the Community Oriented Policing Services Against Drugs Act. As part of our continuing battle against the proliferation of drugs in our nation's communities, my bill seeks to provide $500 million over five years in federal funds from the COPS Program to state and local law enforcement authorities across the country to eliminate or reduce drug crime in America. We know the COPS Program works, and I'm proud to have expanded it to provide our schools with more than 2,600 police officers to combat school violence.

Specifically, this new program will provide federal funds to hire 1,950 more police officers to enhance existing community policing initiatives throughout approximately 65 cities across the country. Newly hired police officers will be charged with developing and implementing community policing initiatives to combat the production, manufacture, distribution, importation, or use of illegal drugs in our communities.

There are dozens of cities across the country, such as Richmond, Norfolk, and Williamsburg in my state, that are committed to providing a safe environment for citizens to live, work and raise a family but need additional resources to help eliminate drug trafficking and drug-related crime, including violent crime. This legislation will build upon the successful COPS Program and focus an aspect of its community policing initiatives against the scourge of illegal drugs in our neighborhoods.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD.

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

S. 2850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community Oriented Policing Services Against Drugs Act''.

SEC. 2. COMMUNITY ORIENTED POLICING SERVICES AGAINST DRUGS.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended by adding at the end the following:

''SEC. 1710. COMMUNITY ORIENTED POLICING SERVICES AGAINST DRUGS.

''(a) ELIGIBLE COMMUNITY DEFINED.—In this section, the term ''eligible community'' means communities identified by the Attorney General under subsection (c).

''(b) AWARD OF GRANTS.—The Attorney General may award grants in accordance with this part—

''(1) to local law enforcement agencies located in eligible communities, which shall be used for programs, projects, and activities—

''(A) to hire additional community policing officers and civilian personnel to aggressively investigate drug-related crimes; and

''(B) to pay overtime to existing law enforcement officers, to the extent such overtime is devoted to community policing efforts with respect to drug-related crimes; and

''(2) to State and local prosecutors' offices located in eligible communities and to prosecution programs in eligible communities that augment community policing programs, which shall be used to assist in the aggressive prosecution of drug-related crimes.

''(c) IDENTIFICATION OF ELIGIBLE COMMUNITIES.—

''(1) IN GENERAL.—The Attorney General shall identify eligible communities for purposes of subsection (a)(4), based on—

''(A) the extent to which the community is a center of illegal drug production, manufacturing, importation, distribution, or use;

''(B) the extent to which State and local law enforcement and prosecutorial authorities have committed resources to the illegal

drug problem in the community, thereby indicating a need for additional Federal resources to combat issues related to the prevalence of illegal drugs;

''(C) the extent to which illegal drug-related activities in the community have an adverse impact on other communities in the Nation; and

''(D) the extent to which additional Federal resources would assist, eliminate, or reduce illegal drug-related activities in the community.

''(2) USE OF CERTAIN DATA.—In carrying out paragraph (1), the Attorney General shall utilize information from national data sources (including the Uniform Crime Reports of the Federal Bureau of Investigation and the Arrestee Drug Abuse Monitoring (ADAM) program of the National Institute of Justice), including data relating to—

''(A) the number of arrests for drug possession or drug sale in the community;

''(B) the number of arrests for drug-related crime in the community; and

''(C) the number of arrestees testing positive for illegal drug use in the community.

''(d) SMALL COMMUNITY PREFERENCE.—In awarding grants under this section, the Attorney General may set aside 20 percent of award grants to applicants located in eligible communities with a population of less than 35,000.

''(e) FUNDING.—Notwithstanding any other provision of this title, of the amount made available to carry out this part, a total of $500,000,000 shall be used to carry out this section for fiscal years 2001 through 2005.''.

By Mr. GRASSLEY:

S. 2853. A bill to amend the Internal Revenue Code of 1986 to allow distributions to be made from certain pension plans before the participant is severed from employment; to the Committee on Finance.

PHASED RETIREMENT PROGRAMS FACILITATED

● Mr. GRASSLEY. Mr. President, today I am introducing a bill to amend the Internal Revenue Code. My bill will facilitate phased retirement programs. In April I held a hearing in the Special Committee on Aging. The subject of the hearing was employment of older workers. Several experts told us what could be done to encourage older individuals to remain in the labor market. In today's tight labor markets, older workers are in great demand. Employers have numerous strategies to attract and retain them—one of those is phased retirement.

At our hearing, several witnesses testified that statutory changes to permit phased retirement programs would be helpful. One of those witnesses was Ms. September Dau from the Iowa Lakes Rural Electric Cooperative in Estherville, Iowa. Ms. Dau noted that the average age of the workforce at her Rural Electric Cooperative is high. Skilled workers are hard to come by and Iowa Lakes has implemented a phased retirement program in order to retain older workers. But they would like the comfort of knowing that their program is sanctioned.

Phased retirement allows a worker to wind down his or her career, by working part-time and retiring part-time. It helps many people maintain their income level rather than quitting work all at once. Financially, it can allow an individual to postpone the time when he or she has to draw down retirement savings. A study performed by Watson Wyatt Worldwide concluded that 16 percent of larger companies already offer phased retirement in some form and another 28 percent show a moderate to high level of interest in offering it in the next two years. But plan sponsors have worries about running afoul of the ''in-service distribution'' rules. Tax rules bar employees from receiving pension distributions before they reach a pension's normal retirement age, which is usually pegged to Social Security. That rule makes it difficult for those who wish to retire gradually and use reduced pension payments to augment reduced pay. It also helps circumvent the ''do-it-yourself'' phased retirement that some workers are forced into where they retire one day from their long-term employer and go to work the next day for someone else. This bill is designed to overcome those problems. At the same time, this provision is completely voluntary and so will not burden plan sponsors.

As I said, we heard from witnesses who supported phased retirement programs. I mentioned September Dau from the Iowa Lakes Rural Electric Cooperative. But another one was our friend and colleague, Congressman EARL POMEROY of North Dakota. Congressman POMEROY told the Committee that phased retirement programs should be allowed as a way of increasing the attractiveness of defined benefit pension plans. Phased retirement programs could also make defined benefit plans more adaptable to the human resource needs of plan sponsors. This is important to Congressman POMEROY because he is introducing a phased retirement bill that is identical to mine.

Defined benefit plans provide a stream of payments to retirees. They can go a long way to supplementing Social Security. But defined benefit plans are on the decline, especially among small businesses, whose employees are the least likely group to be covered by any form of retirement plan. We know that life expectancy is increasing. We also know that Americans are not saving enough to maintain their standard of living in retirement. By making defined benefit plans more attractive to employers and workers—such as by facilitating phased retirement—we are helping to improve the lives of everyday American people.

I hope that this bill is one step in that direction.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN PENSION DISTRIBUTIONS ALLOWED BEFORE SEVERANCE FROM EMPLOYMENT.

(a) IN GENERAL.—Section 401(a) of the Internal Revenue Code of 1986 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (34) the following new paragraph:

''(35) DISTRIBUTION PRIOR TO SEVERANCE FROM EMPLOYMENT.—A trust forming part of a defined benefit plan (or a defined contribution plan which is subject to the funding standards of section 412) shall not constitute a qualified trust under this section if the plan provides a distribution to a participant who has not been severed from employment and the distribution is made before the earliest of the following with respect to the participant:

''(A) Normal retirement age (as defined in section 411(a)(8)).

''(B) Attainment of age 59½.

''(C) The date the participant completes 30 years of service.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.●

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

S. 2857. A bill to amend title 11, United States Code, to exclude personally identifiable information from the assets of a debtor in bankruptcy; to the Committee on the Judiciary.

PRIVACY POLICY ENFORCEMENT IN BANKRUPTCY ACT

Mr. LEAHY. Mr. President, today I am introducing legislation, with my friend from New Jersey, Senator TORRICELLI, to protect the personal privacy of consumers whose information is held by firms filing for bankruptcy protection.

The Privacy Policy Enforcement in Bankruptcy Act would prohibit the sale of personally identifiable information held by a failed business if the sale or disclosure of the personal information would violate the privacy policy of the debtor in effect when the personal information was collected. Personally identifiable information, under our legislation, includes name, address, e-mail address, telephone number, Social Security number, credit card number, date of birth and any other identifier that permits the physical or online contacting of a specific individual.

This legislation is needed because the customer databases of failed Internet firms now can be sold during bankruptcy, even in violation of the firm's stated privacy policy. That is wrong.

Toysmart.com, for example, an online toy store, recently filed for bankruptcy and its databases and customer lists were put up for sale as part of the liquidation of the firm's assets. This personal customer information was put on the auction block even though Toysmart.com promised otherwise on its web page.

Toysmart.com's web site states that ''personal information voluntarily submitted by visitors to our site, such as name, address, billing information and shopping preferences, is never shared with a third party.'' Toysmart.com's privacy statement continues: ''When you register with toysmart.com, you can rest assured that your information will never be shared with a third party.''

But on June 8, 2000, one day before filing for bankruptcy, Toysmart.com advertised in the Wall Street Journal

to sell its customer lists and databases. That was a clear violation of Toysmart.com's web site privacy policy. The Federal Trade Commission has filed suit against Toysmart.com for this violation and I commend the FTC for its action.

Yesterday, the Walt Disney Company, the parent company of Toysmart.com, announced that it would try to purchase Toysmart.com's customer information from the bankruptcy court. I applaud Disney for taking this step. There is no guarantee, however, that Disney will be the top bidder for this information and other corporate parents may not be as responsible if one of their subsidiaries fails. Indeed, two other failed web businesses, Boo.com and Craftshop.com, have reportedly sought buyers for its personal customer data.

That is why this Congress should pass the Privacy Policy Enforcement in Bankruptcy Act this year. Consumers deserve this privacy protection.

Mr. President, it is wrong to use our nation's bankruptcy laws as an excuse to violate a customer's personal privacy. Customers have a right to expect an online firm to adhere to its privacy policies whether it is making a profit or has filed for bankruptcy.

I commend Senator TORRICELLI for joining with me to introduce the Privacy Policy Enforcement in Bankruptcy Act. Our legislation will close this loophole in the Bankruptcy Code and ensure that online and offline firms keep their promises to protect the personal privacy of their customers.

I urge my colleagues to support this basic privacy protection legislation.

ADDITIONAL COSPONSORS

S. 682

At the request of Mr. HELMS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 682, a bill to implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercounty Adoption, and for other purposes.

S. 954

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 954, a bill to amend title 18, United States Code, to protect citizens' rights under the Second Amendment to obtain firearms for legal use, and for other purposes.

S. 1333

At the request of Mr. WYDEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1333, a bill to expand homeownership in the United States.

S. 1473

At the request of Mr. ROBB, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1473, a bill to amend section 2007 of the Social Security Act to provide grant funding for additional Empowerment Zones, Enterprise Communities, and Strategic Planning Communities, and for other purposes.

S. 1732

At the request of Mr. BREAUX, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1732, a bill to amend the Internal Revenue Code of 1986 to prohibit certain allocations of S corporation stock held by an employee stock ownership plan.

S. 1755

At the request of Mr. BROWNBACK, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1755, a bill to amend the Communications Act of 1934 to regulate interstate commerce in the use of mobile telephones.

S. 1806

At the request of Mr. BINGAMAN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1806, a bill to authorize the payment of a gratuity to certain members of the Armed Forces who served at Bataan and Corregidor during World War II, or the surviving spouses of such members, and for other purposes.

S. 1991

At the request of Mr. THOMPSON, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1991, a bill to amend the Federal Election Campaign Act of 1971 to enhance criminal penalties for election law violations, to clarify current provisions of law regarding donations from foreign nationals, and for other purposes.

S. 2018

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2217

At the request of Mr. CAMPBELL, the names of the Senator from Michigan (Mr. ABRAHAM), the Senator from Delaware (Mr. BIDEN), the Senator from Rhode Island (Mr. L. CHAFEE), the Senator from Maine (Ms. COLLINS), the Senator from Idaho (Mr. CRAPO), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. ENZI), the Senator from Tennessee (Mr. FRIST), the Senator from Texas (Mr. GRAMM), the Senator from Nebraska (Mr. HAGEL), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Oklahoma (Mr. NICKLES), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SHELBY), the Senator from Colorado (Mr. ALLARD), the Senator from Kansas (Mr. BROWNBACK), the Senator from Georgia (Mr. CLELAND), the Senator from North Dakota (Mr. CONRAD), the Senator from South Dakota (Mr. DASCHLE), the Senator from North Dakota (Mr. DORGAN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Washington (Mr. GORTON), the Senator from Minnesota (Mr. GRAMS), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Nebraska (Mr. KERREY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Florida (Mr. MACK), the Senator from Nevada (Mr. REID), the Senator from Alabama (Mr. SESSIONS), the Senator from Virginia (Mr. WARNER), the Senator from Arizona (Mr. MCCAIN), the Senator from Idaho (Mr. CRAIG), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2217, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Museum of the American Indian of the Smithsonian Institution, and for other purposes.

S. 2274

At the request of Mr. GRASSLEY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 2274, a bill to amend title XIX of the Social Security Act to provide families and disabled children with the opportunity to purchase coverage under the medicaid program for such children.

S. 2293

At the request of Mr. SANTORUM, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2293, a bill to amend the Federal Deposit Insurance Act and the Federal Home Loan Bank Act to provide for the payment of Financing Corporation interest obligations from balances in the deposit insurance funds in excess of an established ratio and, after such obligations are satisfied, to provide for rebates to insured depository institutions of such excess reserves.

S. 2394

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 2394, a bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments.

S. 2408

At the request of Mr. BINGAMAN, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Illinois (Mr. DURBIN), the Senator from Washington (Mrs. MURRAY), the Senator from New Jersey (Mr. TORRICELLI), the Senator from North Dakota (Mr. CONRAD), the Senator from Rhode Island (Mr. REED), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New York (Mr. SCHUMER), the Senator from Oregon (Mr. WYDEN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 2408, a bill to authorize the President to award a gold medal on behalf of the Congress to the Navajo Code Talkers in recognition of their contributions to the Nation.

S. 2505

At the request of Mr. JEFFORDS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2505, a bill to amend title XVIII of the Social Security Act to provide increased assess to health care for medical beneficiaries through telemedicine.

S. 2608

At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2608, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 2615

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2615, a bill to establish a program to promote child literacy by making books available through early learning and other child care programs, and for other purposes.

S. 2643

At the request of Mr. STEVENS, the names of the Senator from Missouri (Mr. BOND), the Senator from New Mexico (Mr. DOMENICI), the Senator from California (Mrs. FEINSTEIN), the Senator from Illinois (Mr. DURBIN), the Senator from Washington (Mr. GORTON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mrs. HUTCHISON), the Senator from Oklahoma (Mr. INHOFE), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 2643, a bill to amend the Foreign Assistance Act of 1961 to provide increased foreign assistance for tuberculosis prevention, treatment, and control.

S. 2644

At the request of Mr. GORTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2644, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 2700

At the request of Mr. L. CHAFEE, the names of the Senator from Michigan (Mr. ABRAHAM), the Senator from Colorado (Mr. CAMPBELL), the Senator from Indiana (Mr. LUGAR), the Senator from Rhode Island (Mr. REED), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2700, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

S. 2707

At the request of Mr. CRAPO, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2707, a bill to help ensure general aviation aircraft access to Federal land and the airspace over that land.

S. 2725

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2725, a bill to provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.

S. 2726

At the request of Mr. HELMS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2726, a bill to protect United States military personnel and other elected and appointed officials of the United States Government against criminal prosecution by an international criminal court to which the United States is not a party.

S. 2735

At the request of Mr. KOHL, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 2735, a bill to promote access to health care services in rural areas.

S. 2787

At the request of Mr. BIDEN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2787, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 2823

At the request of Mr. GRAHAM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2823, a bill to amend the Andean Trade Preference Act to grant certain benefits with respect to textile and apparel, and for other purposes.

S. 2828

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2828, a bill to amend title XVIII of the Social Security Act to require that the Secretary of Health and Human Services wage adjust the actual, rather than the estimated, proportion of a hospital's costs that are attributable to wages and wage-related costs.

S. 2841

At the request of Mr. ROBB, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2841, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. CON. RES. 123

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Con. Res. 123, a concurrent resolution expressing the sense of the Congress regarding manipulation of the mass and intimidation of the independent press in the Russian Federation, expressing support for freedom of speech and the independent media in the Russian Federation, and calling on the President of the United States to express his strong concern for freedom of speech and the independent media in the Russian Federation.

S.J. RES. 48

At the request of Mr. SANTORUM, his name was added as a cosponsor of S.J. Res. 48, a joint resolution calling upon the President to issue a proclamation recognizing the 25th anniversary of the Helsinki Final Act.

S. RES. 294

At the request of Mr. ABRAHAM, the names of the Senator from Minnesota (Mr. GRAMS), the Senator from Alaska (Mr. STEVENS), and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. Res. 294, a resolution designating the month of October 2000 as ''Children's Internet Safety Month''.

S. RES. 304

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 304, a resolution expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week that includes Veterans Day as ''National Veterans Awareness Week'' for the presentation of such educational programs.

AMENDMENT NO. 3185

At the request of Mr. BENNETT, the names of the Senator from Michigan (Mr. ABRAHAM) and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of amendment No. 3185 proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. THOMPSON, his name was withdrawn as a cosponsor of amendment No. 3185 proposed to S. 2549, supra.

AMENDMENT NO. 3732

At the request of Mr. DURBIN, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from California (Mrs. BOXER), and the Senator from Rhode Island (Mr. REED) were added as cosponsors of Amendment No. 3732 proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 3753

At the request of Mr. DODD, the name of the Senator from West Virginia (Mr.

ROCKEFELLER) was added as a cosponsor of amendment No. 3753 proposed to S. 2549, an original bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 3790

At the request of Mr. BRYAN, his name was added as a cosponsor of amendment No. 3790 proposed to H.R. 4578, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

At the request of Mr. SESSIONS, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of amendment No. 3790 proposed to H.R. 4578, supra.

At the request of Mr. BAYH, his name was added as a cosponsor of amendment No. 3790 proposed to H.R. 4578, supra.

AMENDMENT NO. 3795

At the request of Mr. CRAIG, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of amendment No. 3795 proposed to H.R. 4578, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

CONCURRENT RESOLUTION 130—ESTABLISHING A SPECIAL TASK FORCE TO RECOMMEND AN APPROPRIATE RECOGNITION FOR THE SLAVE LABORERS WHO WORKED ON THE CONSTRUCTION OF THE UNITED STATES CAPITOL

Mr. ABRAHAM (for himself and Mrs. LINCOLN) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 130

Whereas the United States Capitol stands as a symbol of democracy, equality, and freedom to the entire world;

Whereas the year 2000 marks the 200th anniversary of the opening of this historic structure for the first session of Congress to be held in the new Capital City;

Whereas slavery was not prohibited throughout the United States until the ratification of the 13th amendment to the Constitution in 1865;

Whereas previous to that date, African American slave labor was both legal and common in the District of Columbia and the adjoining States of Maryland and Virginia;

Whereas public records attest to the fact that African American slave labor was used in the construction of the United States Capitol;

Whereas public records further attest to the fact that the five-dollar-per-month payment for that African American slave labor was made directly to slave owners and not to the laborer; and

Whereas African Americans made significant contributions and fought bravely for freedom during the American Revolutionary War: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Speaker of the House of Representatives and the President pro tempore of the Senate shall establish a special task force to study the history and contributions of these slave laborers in the construction of the United States Capitol; and

(2) such special task force shall recommend to the Speaker of the House of Representatives and the President pro tempore of the Senate an appropriate recognition for these slave laborers which could be displayed in a prominent location in the United States Capitol.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

HATCH AMENDMENT NO. 3796

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title X, add the following:

SEC. . EFFECTS OF WORLDWIDE CONTINGENCY OPERATIONS ON READINESS OF CERTAIN MILITARY AIRCRAFT.

(a) REQUIREMENT FOR REPORT.—The Secretary of Defense shall submit to Congress, not later than 180 days after the date of the enactment of this Act, a report on the effects of worldwide contingency operations of the Navy, Marine Corps, and Air Force on the readiness of aircraft of those Armed Forces. The report shall contain the Secretary's assessment of the effects of those operations on the capability of the Department of Defense to maintain a high level of equipment readiness and to manage a high operating tempo for the aircraft.

(b) EFFECTS CONSIDERED.—The assessment contained in the report shall address the following effects:

(1) The effects of the contingency operations carried out during fiscal years 1995 through 2000 on the aircraft of each of the Navy, Marine Corps, and Air Force in each category of aircraft, as follows:

(A) Combat tactical aircraft.

(B) Strategic aircraft.

(C) Combat support aircraft.

(D) Combat service support aircraft.

(2) The types of adverse effects on the aircraft of each of the Navy, Marine Corps, and Air Force in each category of aircraft specified in paragraph (1) resulting from contingency operations, as follows:

(A) Patrolling in no-fly zones—

(i) over Iraq in Operation Northern Watch;

(ii) over Iraq in Operation Southern Watch; and

(iii) over the Balkans in Operation Allied Force.

(B) Air operations in the NATO air war against Serbia in Operation Sky Anvil, Operation Noble Anvil, and Operation Allied Force.

(C) Air operations in Operation Shining Hope in Kosovo.

(D) All other activities within the general context of worldwide contingency operations.

(3) Any other effects that the Secretary considers appropriate in carrying out subsection (a).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

THOMAS (AND OTHERS) AMENDMENT NO. 3797

(Ordered to lie on the table.)

Mr. THOMAS (for himself, Mr. HATCH, and Mr. BURNS) submitted an amendment intended to be proposed by them to the bill (H.R. 4578) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 115, line 19, strike the number ''145,000,000'' and insert in lieu thereof the number ''155,000,000'';

On page 112, line 20, strike the number ''693,133,000'' and insert in lieu therof ''685,133,000''; and

On page 113, line 14, strike the number ''693,133,000'' and insert in lieu thereof ''685,133,000''; and

On page 130, line 4, strike the number ''847,596,000'' and insert in lieu thereof ''841,596,000.

REED AMENDMENTS NOS. 3798–3799

(Ordered to lie on the table.)

Mr. REED submitted two amendments intended to be proposed by him to the bill H.R. 4578, supra; as follows:

AMENDMENT NO. 3798

On page 182, beginning on line 9, strike ''$761,937,000'' and all that follows through ''$138,000,000'' on line 17 and insert ''$769,937,000, to remain available until expended, of which $2,000,000 shall be derived by transfer from unobligated balances in the Biomass Energy Development account and $8,000,000 shall be derived by transfer of a proportionate amount from each other account for which this Act makes funds available for travel, supplies, and printing expenses: *Provided*, That $172,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99–509, such sums shall be allocated to the eligible programs as follows: $146,000,000''.

AMENDMENT NO. 3799

On page 200, line 24, strike ''$105,000,000'' and insert ''$108,000,000''.

On page 225, between lines 11 and 12, insert the following:

SEC. 3 . (a) The total discretionary amount made available by this Act is reduced by $3,000,000: *Provided*, That the reduction pursuant to this subsection shall be made by reducing by a uniform percentage the amount made available for travel, supplies, and printing expenses to the agencies funded by this Act.

(b) Not later than 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing, by account, of the amounts of the reductions made pursuant to subsection (a).

THOMAS (AND OTHERS) AMENDMENT NO. 3800

(Ordered to lie on the table.)

Mr. THOMAS (for himself, Mr. CRAIG, Mr. GRAMS, Mr. CRAPO, and Mr. ENZI) submitted an amendment intended to be proposed by them to the bill, H.R. 4578, supra; as follows:

On page 125, line 25 strike ''$58,209,000'' through page 126, line 2 and insert in lieu thereof ''$57,809,000, of which $2,000,000 shall be available to carry out the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.).

''SEC. . MANAGEMENT STUDY OF CONFLICTING USES.

''(a) SNOW MACHINE STUDY.—Of funds made available to the Secretary of the Interior for the operation of National Recreation and Preservation Programs of the National Park Service $400,000 shall be available to conduct a study to determine how the National Park Service can:

''(1) minimize the potential impact of snow machines and properly manage competing recreation activities in the National Park System, and

''(2) properly manage competing recreational activities in units of the National Park System.

''(b) LIMITATION ON FUNDS PENDING STUDY COMPLETION.—No funds appropriated under this Act may be expended to prohibit, ban or reduce the number of snow machines from units of the National Park System that allowed the use of snow machines during any one of the last three winter seasons until the study referred to in subsection (a) is completed and submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.''.

BYRD AMENDMENT No. 3801

Mr. GORTON (for Mr. BYRD) proposed an amendment to the bill, H.R. 4578, supra; and follows:

At the end of Title III of the bill insert the following

''SEC. . From funds previously appropriated under the heading 'Department of Energy, Fossil Energy Research and Development,' $4,000,000 is immediately available from unobligated balances for computational services at the National Energy Technology Laboratory.''

GORTON AMENDMENT NO. 3802

Mr. GORTON proposed an amendment to the bill, H.R. 4578; supra; as follows:

On page 127, line 11, strike $10,000,000 and insert ''$12,000,000''.

GRAMS (AND WELLSTONE) AMEMDMENT NO. 3803

Mr. GORTON (for Mr. GRAMS (for himself and Mr. WELLSTONE)) proposed an amendment to the bill, H.R. 4578, supra; as follows:

On page 126, line 16, strike ''$207,079,000,'' and insert ''$202,950,000, of which not more than $511,000 shall be used for the preconstruction, engineering, and design of a heritage center for the Grand Portage National Monument in Minnesota,''.

On page 165, line 25, strike ''$618,500,000,'' and inserting ''$622,629,000, of which at least $6,947,000 shall be used for hazardous fuels reduction activities and expenses resulting from windstorm damage in the Superior National Forest in Minnesota, $3,000,000 of which shall not be available until September 30, 2001.

THOMAS (AND OTHERS) AMENDMENT NO. 3804

Mr. THOMAS (for himself, Mr. HATCH, Mr. BURNS, Mr. GRAMS, and Mr. DEWINE) proposed an amendment to the bill, H.R. 4578, supra; as follows:

On page 112, line 20, strike ''$693,133,000'' and insert ''$689,133,000 of which not to exceed $125,900,000 shall be for workforce and organizational support and $16,586,000 shall be for Land and Resource Information Systems''.

On page 113, line 14, strike ''$693,133,000'' and insert ''$689,133,000''.

On page 115, line 19, strike ''$145,000,000'' and insert ''$148,000,000''.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

STEVENS (AND WARNER) AMENDMENT NO. 3805

(Ordered to lie on the table.)

Mr. STEVENS (for himself and Mr. WARNER) submitted an amendment intended to be proposed by them to amendment No. 3758 previously submitted by Mr. KERRY to the bill, S. 2549, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 342. PAYMENT OF FINES AND PENALTIES FOR ENVIRONMENTAL COMPLIANCE VIOLATIONS.

(a) PAYMENT OF FINES AND PENALTIES.—(1) Chapter 160 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2710. Environmental compliance: payment of fines and penalties for violations

''(a) IN GENERAL.—The Secretary of Defense or the Secretary of a military department may not pay a fine or penalty for an environmental compliance violation that is imposed by a Federal agency against the Department of Defense or such military department, as the case may be, unless the payment of the fine or penalty is specifically authorized by law, if—

''(1) the amount of the fine or penalty (including any supplemental environmental projects carried out as part of such penalty) is $1,500,000 or more; or

''(2) the fine or penalty is based on the application of economic benefit criteria or size-of-business criteria.

''(b) DEFINITIONS.—In this section:

''(1)(A) Except as provided in subparagraph (B), the term 'environmental compliance', in the case of on-going operations, functions, or activities at a Department of Defense facility, means the activities necessary to ensure that such operations, functions, or activities meet requirements under applicable environmental law.

''(B) The term does not include operations, functions, or activities relating to environmental restoration under this chapter that are conducted using funds in an environmental restoration account under section 2703(a) of this title.

''(2) The term 'economic benefit criteria', in the case of the imposition of a fine or penalty for an environmental compliance violation, means criteria which determine the existence of the violation, or the amount of the fine or penalty, based on the assumption that a competitive advantage was gained by a failure to invest money necessary to achieve the environmental compliance concerned.

''(3) The term 'size-of-business criteria', in the case of the imposition of a fine or penalty for an environmental compliance violation, means criteria which determine the existence of the violation, or the amount of the fine or penalty, based on an assessment of an entity's net worth and on assumptions regarding the entity's ability to pay the fine or penalty.

''(4) The term 'violation', in the case of environmental compliance, means an act or omission resulting in the failure to ensure the compliance.

''(c) EXPIRATION OF PROHIBITION.—This section does not apply to any part of a violation described in subsection (a) that occurs on or after the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2710. Environmental compliance: payment of fines and penalties for violations.''.

(b) APPLICABILITY.—(1) Section 2710 of title 10, United States Code (as added by subsection (a)), shall take effect on the date of the enactment of this Act.

(2) Subsection (a)(1) of that section, as so added, shall not apply with respect to any supplemental environmental projects referred to in that subsection that were agreed to before the date of the enactment of this Act.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

DOMENICI (AND OTHERS) AMENDMENT NO. 3806

Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. KYL, Mr. CRAIG, Mr. BINGAMAN, and Mr. BAUCUS) proposed an amendment to amendment No. 3795 previously proposed by Mr. CRAIG to the bill, H.R. 4578, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE —HAZARDOUS FUELS REDUCTION

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

For an additional amendment for ''Wildland Fire Management'' to remove hazardous material to alleviate immediate emergency threats to urban wildland interface areas as defined by the Secretary of the Interior, $120.3 million to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined by such Act, is transmitted by the President to the Congress.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

For an additional amount for ''Wildland Fire Management'' to remove hazardous material to alleviate immediate emergency

threats to urban wildland interface areas as defined by the Secretary of Agriculture, $120 million to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined by such Act, is transmitted by the President to the Congress: *Provided further*, That:

(a) In expending the funds provided in any Act with respect to any fiscal year for hazardous fuels reduction, the Secretary of the Interior and the Secretary of Agriculture may hereafter conduct fuel reduction treatments on Federal lands using all contracting and hiring authorities available to the Secretaries. Notwithstanding Federal government procurement and contracting laws, the Secretaries may hereafter conduct fuel reduction treatments on Federal lands using grants and cooperative agreements. Notwithstanding Federal government procurement and contracting laws, in order to provide employment and training opportunities to people in rural communities, the Secretaries may hereafter, at their sole discretion, limit competition for any contracts, with respect to any fiscal year, including contracts for monitoring activities, to:

(1) local private, non-profit, or cooperative entities;

(2) Youth Conservation Corps crews or related partnerships with state, local, and nonprofit youth groups;

(3) Small or micro-businesses; or

(4) other entities that will hire or train a significant percentage of local people to complete such contracts.

(b) Prior to September 30, 2000, the Secretary of Agriculture and the Secretary of the Interior shall jointly publish in the Federal Register a list of all urban wildland interface communities, as defined by the Secretaries, within the vicinity of Federal lands that are at risk from wildfire. This list shall include:

(1) an identification of communities around which hazardous fuel reduction treatments are ongoing; and

(2) an identification of communities around which the Secretaries are preparing to begin treatments in calendar year 2000.

(c) Prior to May 1, 2001, the Secretary of Agriculture and the Secretary of the Interior shall jointly publish in the Federal Register a list of all urban wildland interface communities, as defined by the Secretaries, within the vicinity of Federal lands and at risk from wildfire that are included in the list published pursuant to subsection (b) but that are not included in paragraphs (b)(1) and (b)(2), along with an identification of reasons, not limited to lack of available funds, why there are no treatments ongoing or being prepared for these communities.

(d) Within 30 days after enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register the Forest Service's Cohesive Strategy for Protecting People and Sustaining Resources in Fire-Adapted Ecosystems, and an explanation of any differences between the Cohesive Strategy and other related ongoing policymaking activities including: proposed regulations revising the National Forest System transportation policy; proposed roadless area protection regulations; the Interior Columbia Basin Draft Supplement Environmental Impact Statement; and the Sierra Nevada Framework/Sierra Nevada Forest Plan Draft Environmental Impact Statement. The Secretary shall also provide 30 days for public comment on the Cohesive Strategy and the accompanying explanation.

COLLINS (AND SNOWE) AMENDMENT NO. 3807

Ms. COLLINS (for herself and Ms. SNOWE) proposed an amendment to the bill H.R. 4578, supra; as follows:

On page 121, between lines 18 and 19, insert the following:

For an additional amount for salmon restoration and conservation efforts in the State of Maine, $5,000,000, to remain available until expended, which amount shall be made available to the National Fish and Wildlife Foundation to carry out a competitively awarded grant program for State, local, or other organizations in Maine to fund on-the-ground projects to further Atlantic salmon conservation or restoration efforts in coordination with the State of Maine and the Maine Atlantic Salmon Conservation Plan, including projects to (1) assist in land acquisition and conservation easements to benefit Atlantic salmon; (2) develop irrigation and water use management measures to minimize any adverse effects on salmon habitat; and (3) develop and phase in enhanced aquaculture cages to minimize escape of Atlantic salmon: *Provided*, That, of the amounts appropriated under this paragraph, $2,000,000 shall be made available to the Atlantic Salmon Commission for salmon restoration and conservation activities, including installing and upgrading weirs and fish collection facilities, conducting risk assessments, fish marking, and salmon genetics studies and testing, and developing and phasing in enhanced aquaculture cages to minimize escape of Atlantic salmon, and $500,000 shall be made available to the National Academy of Sciences to conduct a study of Atlantic salmon: *Provided further*, That the amounts appropriated under this paragraph shall not be subject to section 10(b)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(b)(1)): *Provided further*, That the National Fish and Wildlife Foundation shall give special consideration to proposals that include matching contributions (whether in currency, services, or property) made by private persons or organizations or by State or local government agencies, if such matching contributions are available: *Provided further*, That amounts made available under this paragraph shall be provided to the National Fish and Wildlife Foundation not later than 15 days after the date of enactment of this Act: *Provided further*, That the entire amount made available under this paragraph is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

FEINGOLD AMENDMENT NO. 3808

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill, H.R. 4578, supra; as follows:

On page 188, at the end of line 13, insert the following (and renumber accordingly): ''*Provided further*, That funds available to the Indian Health Service for contract health services be used to fund all tribes at a minimum of 60% of level of need.''

FEINGOLD (AND KOHL) AMENDMENT NO. 3809

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself and Mr. KOHL) submitted an amendment intended to be proposed by them to the bill, H.R. 4578, supra; as follows:

On page 126, lines 16 and 17, strike ''$207,079,000, to remain available until expended:'' and insert ''$209,819,000, to remain available until expended, of which $2,540,000 shall be available for repair of erosion at Outer Island Lighthouse, and $200,000 shall be available for the conduct of a wilderness suitability study, at Apostle Islands National Lakeshore, Wisconsin, which amounts shall be derived by transfer of a proportionate amount of funds for administrative expenses from each other account for which this bill makes funds available for administrative expenses:''.

DURBIN AMENDMENT NO. 3810

Mr. DURBIN proposed an amendment to the bill, H.R. 4578, supra; as follows:

Strike section 116.

LIEBERMAN (AND DODD) AMENDMENT NO. 3811

(Ordered to lie on the table.)

Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed by them to the bill, H.R. 4578, supra; as follows:

On page 183, strike line 15 and insert ''$165,000,000, to remain available until expended, of which $8,000,000 shall be derived by transfer of unobligated balances of funds previously appropriated under the heading ''NAVAL PETROLEUM AND OIL SHALE RESERVES'', and of which $8,000,000 shall be available for maintenance of a Northeast Home Heating Oil Reserve.''.

On page 225, between lines 11 and 12, insert the following:

SEC. 3. STRATEGIC PETROLEUM RESERVE PLAN.

(a) IN GENERAL.—For purposes of Amendment No. 6 to the Strategic Petroleum Reserve Plan transmitted by the Secretary of Energy on July 10, 2000, under section 154 of the Energy Policy and Conservation Act (42 U.S.C. 6234), the Secretary may draw down product from the Regional Distillate Reserve only on a finding by the President that there is a severe energy supply interruption.

(b) SEVERE ENERGY SUPPLY INTERRUPTION.—

(1) IN GENERAL.—For the purposes of subsection (a), a severe energy supply interruption shall be deemed to exist if the President determines that—

(A) a severe increase in the price of middle distillate oil has resulted from an energy supply interruption; or

(B)(i) a circumstance other than that described in subparagraph (A) exists that constitutes a regional supply shortage of significant scope or duration; and

(ii) action taken under this section would assist directly and significantly in reducing the adverse impact of the supply shortage.

(2) SEVERE INCREASE IN THE PRICE OF MIDDLE DISTILLATE OIL.—For the purposes of paragraph (1)(A), a severe increase in the price of middle distillate oil'' shall be deemed to have occurred if—

(A) the price differential between crude oil and residential No. 2 heating oil in the Northeast, as determined by the Energy Information Administration, increases by—

(i) more than 15 percent over a 2-week period;

(ii) more than 25 percent over a 4-week period; or

(iii) more than 60 percent over its 5-year seasonally adjusted rolling average; and

(B) the price differential continues to increase during the most recent week for which price information is available.

INHOFE (AND NICKLES) AMENDMENT NO. 3812

Mr. INHOFE (for himself and Mr. NICKLES) proposed an amendment to the bill, H.R. 4578, supra; as follows:

At the appropriate place, add the following:

SEC. . Notwithstanding any other provision of this Act—

(1) $7,372,000 shall be available to the Indian Health Service for diabetes treatment, prevention, and research; and

(2) the total amount made available under this Act under the heading ''NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES'' under the heading ''NATIONAL ENDOWMENT FOR THE ARTS'' under the heading ''GRANTS AND ADMINISTRATION'' shall be $97,628,000.

ASHCROFT AMENDMENT NO. 3813

Mr. ASHCROFT proposed an amendment to the bill, H.R. 4578, supra; as follows:

On page 164, line 23, strike ''6a(i):'' and insert ''6a(i), of which not less than $500,000 shall be available for use for law enforcement purposes in the national forest that, during fiscal year 2000, had both the greatest number of methamphetamine dumps per acre and the greatest number of methamphetamine laboratory law enforcement actions per acre:''.

REID AMENDMENT NO. 3814

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill, H.R. 4578, supra; as follows:

On page 112, at the end of line 20, add ''of which no amount shall be available for the Undaunted Stewardship program, of which $1,000,000 shall be available for management of the upper Missouri River with a focus on the increased visitation associated with the Lewis and Clark Bicentennial celebration, of which $1,000,000 shall be available for acquisition from willing sellers of conservation easements in the area of the Lewis and Clark Trail,''.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

STEVENS (AND WARNER) AMENDMENT NO. 3815

Mr. STEVENS (for himself and Mr. WARNER) proposed an amendment to the bill, S. 2549, supra; as follows:

Section 342 is amended by striking the provisions therein and inserting:

SEC. 342. PAYMENT OF FINES AND PENALTIES FOR ENVIRONMENTAL COMPLIANCE VIOLATIONS.

(a) PAYMENT OF FINES AND PENALTIES.—(1) Chapter 160 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2710. Environmental compliance: payment of fines and penalties for violations

''(a) IN GENERAL.—The Secretary of Defense or the Secretary of a military department may not pay a fine or penalty for an environmental compliance violation that is imposed by a Federal agency against the Department of Defense or such military department, as the case may be, unless the payment of the fine or penalty is specifically authorized by law, if the amount of the fine or penalty (including any supplemental environmental projects carried out as part of such penalty) is $1,500,000 or more.

''(b) DEFINITIONS.—In this section:

''(1)(A) Except as provided in subparagraph (B), the term 'environmental compliance', in the case of on-going operations, functions, or activities at a Department of Defense facility, means the activities necessary to ensure that such operations, functions, or activities meet requirements under applicable environmental law.

''(B) The term does not include operations, functions, or activities relating to environmental restoration under this chapter that are conducted using funds in an environmental restoration account under section 2703(a) of this title.

''(2) The term 'violation', in the case of environmental compliance, means an act or omission resulting in the failure to ensure the compliance.

''(c) EXPIRATION OF PROHIBITION.—This section does not apply to any part of a violation described in subsection (a) that occurs on or after the date that is three years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2710. Environmental compliance: payment of fines and penalties for violations.''.

(b) APPLICABILITY.—(1) Section 2710 of title 10, United States Code (as added by subsection (a)), shall take effect on the date of the enactment of this Act.

(2) Subsection (a)(1) of that section, as so added, shall not apply with respect to any supplemental environmental projects referred to in that subsection that were agreed to before the date of the enactment of this Act.

LEVIN (AND OTHERS) AMENDMENT NO. 3816

Mr. LEVIN (for himself, Mr. WARNER, and Mr. THOMPSON) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 303, between lines 6 and 7, insert the following:

SEC. 814. PROCUREMENT NOTICE THROUGH ELECTRONIC ACCESS TO CONTRACTING OPPORTUNITIES.

(a) PUBLICATION BY ELECTRONIC ACCESSIBILITY.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1)(A), by striking ''furnish for publication by the Secretary of Commerce'' and inserting ''publish'';

(2) by striking paragraph (2) and inserting the following:

''(2)(A) A notice of solicitation required to be published under paragraph (1) may be published by means of—

''(i) electronic accessibility that meets the requirements of paragraph (7); or

''(ii) publication in the Commerce Business Daily.

''(B) The Secretary of Commerce shall promptly publish in the Commerce Business Daily each notice or announcement received under this subsection for publication by that means.''; and

(3) by adding at the end the following:

''(7) A publication of a notice of solicitation by means of electronic accessibility meets the requirements of this paragraph for electronic accessibility if the notice is electronically accessible in a form that allows convenient and universal user access through the single Government-wide point of entry designated in the Federal Acquisition Regulation.''.

(b) WAITING PERIOD FOR ISSUANCE OF SOLICITATION.—Paragraph (3) of such subsection is amended—

(1) in the matter preceding subparagraph (A), by striking ''furnish a notice to the Secretary of Commerce'' and inserting ''publish a notice of solicitation''; and

(2) in subparagraph (A), by striking ''by the Secretary of Commerce''.

(c) CONFORMING AMENDMENTS FOR SMALL BUSINESS ACT.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(1) in paragraph (1)(A), by striking ''furnish for publication by the Secretary of Commerce'' and inserting ''publish'';

(2) by striking paragraph (2) and inserting the following:

''(2)(A) A notice of solicitation required to be published under paragraph (1) may be published by means of—

''(i) electronic accessibility that meets the requirements of section 18(a)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(7)); or

''(ii) publication in the Commerce Business Daily.

''(B) The Secretary of Commerce shall promptly publish in the Commerce Business Daily each notice or announcement received under this subsection for publication by that means.''; and

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''furnish a notice to the Secretary of Commerce'' and inserting ''publish a notice of solicitation''; and

(B) in subparagraph (A), by striking ''by the Secretary of Commerce''.

(d) PERIODIC REPORTS ON IMPLEMENTATION OF ELECTRONIC COMMERCE IN FEDERAL PROCUREMENT.—Section 30(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 426(e)) is amended—

(1) in the first sentence, by striking ''Not later than March 1, 1998, and every year afterward through 2003'' and inserting ''Not later than March 1 of each even-numbered year through 2004''; and

(2) in paragraph (4)—

(A) by striking ''Beginning with the report submitted on March 1, 1999,''; and

(B) by striking ''calendar year'' and inserting ''two fiscal years''.

(e) EFFECTIVE DATE AND APPLICABILITY.—This section and the amendments made by this section shall take effect on October 1, 2000. The amendments made by subsections (a), (b) and (c) shall apply with respect to solicitations issued on or after that date.

LEVIN (AND OTHERS) AMENDMENT NO. 3817

Mr. LEVIN (for himself, and Mrs. MURRAY) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 543, strike line 20 and insert the following:

Part III—Air Force Conveyances

SEC. 2861. LAND CONVEYANCE, MUKILTEO TANK FARM, EVERETT, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Port of Everett, Washington (in this section referred to as the ''Port''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 22 acres and known as the Mukilteo Tank Farm for the purposes of permitting the Port to use the parcel for the development and operation of a port facility and for other public purposes.

(b) PERSONAL PROPERTY.—The Secretary of the Air Force may include as part of the conveyance authorized by subsection (a) any

personal property at the Mukilteo Tank Farm that is excess to the needs of the Air Force if the Secretary of Transportation determines that such personal property is appropriate for the development or operation of the Mukilteo Tank Farm as a port facility.

(c) INTERIM LEASE.—(1) Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary of the Air Force may lease all or part of the real property to the Port if the Secretary determines that the real property is suitable for lease and the lease of the property under this subsection will not interfere with any environmental remediation activities or schedules under applicable law or agreements.

(2) The determination under paragraph (1) whether the lease of the real property will interfere with environmental remediation activities or schedules referred to in that paragraph shall be based upon an environmental baseline survey conducted in accordance with applicable Air Force regulations and policy.

(3) Except as provided by paragraph (4), as consideration for the lease under this subsection, the Port shall pay the Secretary an amount equal to the fair market of the lease, as determined by the Secretary.

(4) The amount of consideration paid by the Port for the lease under this subsection may be an amount, as determined by the Secretary, less than the fair market value of the lease if the Secretary determines that—

(A) the public interest will be served by an amount of consideration for the lease that is less than the fair market value of the lease; and

(B) payment of an amount equal to the fair market value of the lease is unobtainable.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Port.

(e) ADDITIONAL TERMS.—The Secretary of the Air Force, in consultation with the Secretary of Transportation, may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary of the Air Force considers appropriate to protect the interests of the United States.

Part IV—Defense Agencies Conveyances

NATIONAL FRAGILE X AWARENESS WEEK

EDWARDS (AND HAGEL) AMENDMENTS NOS. 3818–3820

Mr. WARNER (for Mr. EDWARDS (for himself and Mr. HAGEL)) proposed three amendments to the resolution (S. Res. 268) designating July 17 through July 23 as ''National Fragile X Awareness Week''; as follows:

AMENDMENT NO. 3818

On page 2 strike line 1 and all that follows to page 3 line 2, and insert: ''*Resolved*, That the Senate designates July 22, 2000 as 'National Fragile X Awareness Day.' ''

AMENDMENT NO. 3819

Strike the preamble and insert:

''Whereas Fragile X is the most common inherited cause of mental retardation, affecting people of every race, income level, and nationality;

''Whereas 1 in every 260 women is a carrier of the Fragile X defect;

''Whereas 1 in every 4,000 children is born with the Fragile X defect, and typically requires a lifetime of special care at a cost of over $2,000,000;

''Whereas Fragile X remains frequently undetected due to its recent discovery and the lack of awareness about the disease, even within the medical community;

''Whereas the genetic defect causing Fragile X has been discovered, and is easily identified by testing;

''Whereas inquiry into Fragile X is a powerful research model for neuropsychiatric disorders, such as autism, schizophrenia, pervasive developmental disorders, and other forms of X-linked mental retardation;

''Whereas individuals with Fragile X can provide a homogeneous research population for advancing the understanding of neuropsychiatric disorders;

''Whereas with concerted research efforts, a cure for Fragile X may be developed;

''Whereas Fragile X research, both basic and applied, has been vastly underfunded despite the prevalence of the disorder, the potential for the development of a cure, the established benefits of available treatments and intervention, and the significance that Fragile X research has for related disorders; and

''Whereas the Senate as an institution and Members of Congress as individuals are in unique positions to help raise public awareness about the need for increased funding for research and early diagnosis and treatment for the disorder known as Fragile X: Now, therefore, be it''.

AMENDMENT NO. 3820

Amend the title as to read: ''Designating July 22, 2000 as 'National Fragile X Awareness Day'.''

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 12, 2000 at 9:30 a.m., in open session to continue to receive testimony in review of the Department of Defense Anthrax Vaccine Immunization Program.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 12, 2000 at 9:30 a.m. on the nominations of Francisco Sanchez, to be Assistant Secretary for Aviation and International Affairs of the Department of Transportation; and Ms. Katherine Anderson, Mr. Frank Cruz, Mr. Kenneth Tomlinson, and Dr. Ernest Wilson, to be members of the board of the Corporation of Public Broadcasting.

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

COMMITTEE ON FINANCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 12, 2000, to hear testimony on Disclosure of Political Activity of 527 and Other Organizations: Overview of Legislative Proposals.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 12, 2000 at 10:30 am and 2:00 pm to hold two hearings.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on National Science Foundation: Exploring the Endless Frontier during the session of the Senate on Wednesday, July 12, 2000, at 10:00 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 12, 2000 at 2:30 p.m. in room 485 of the Russell Senate Building to conduct An Oversight Hearing on the reports of the Bureau of Indian Affairs and the General Accounting Office on Risk Management and Tort Liability.

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

COMMITTEE ON THE JUDICIARY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, July 12, 2000, at 2:00 p.m., in Dirksen 226.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 12, at 2:30 p.m. to conduct an oversight hearing. The subcommittee will receive testimony on the Draft Environmental Impact Statement implementing the October 1999 announcement by President Clinton to review approximately 40 million acres of national forest lands for increased protection.

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on Wednesday, July 12, 2000 at 10:00 a.m., in SD226.

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

PRIVILEGES OF THE FLOOR

Mr. THOMAS. I ask unanimous consent that Chris Tyler, an intern in my office, be permitted privileges of the floor for the remainder of today's session.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Cary Cascino, an intern on my staff, be granted the privilege of the floor during the remainder of the debate.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that a staff intern, Bill Ebee, be granted the privilege of the floor for the purpose of this debate.

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

MEASURE READ THE FIRST TIME—H.R. 894

Mr. WARNER. Mr. President, I understand that H.R. 894 is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 894) to encourage States to incarcerate individuals convicted of murder, rape, or child molestation.

Mr. WARNER. Mr. President, I ask for its second reading, and object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

NATIONAL FRAGILE X AWARENESS DAY

Mr. WARNER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from consideration of S. Res. 268, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 268) designating July 17, through July 23 as National Fragile X Awareness Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, Senator EDWARDS and Senator HAGEL have amendments at the desk. I ask unanimous consent that they be considered in the appropriate order, the amendments be agreed to, the motion to reconsider the resolution be laid upon the table, the title amendment be agreed to, and the motion to reconsider be laid upon the table.

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

The amendments (Nos. 3818, 3819, and 3820) were agreed to, as follows:

AMENDMENT NO. 3818

On page 2, strike lines 1 and all that follows to page 3, line 2, and insert: ''*Resolved*, That the Senate designates July 22, 2000 as 'National Fragile X Awareness Day.'''

AMENDMENT NO. 3819

Strike the preamble and insert:

''Whereas Fragile X is the most common inherited cause of mental retardation, affecting people of every race, income level, and nationality;

''Whereas 1 in every 260 women is a carrier of the Fragile X defect;

''Whereas 1 in every 4,000 children is born with the Fragile X defect, and typically requires a lifetime of special care at a cost of over $2,000,000;''

''Whereas Fragile X remains frequently undetected due to its recent discovery and the lack of awareness about the disease, even within the medical community;

''Whereas the genetic defect causing Fragile X has been discovered, and is easily identified by testing;

''Whereas inquiry into Fragile X is a powerful research model for neuropsychiatric disorders, such as autism, schizophrenia, pervasive development disorders, and other forms of X-linked mental retardation;

''Whereas individuals with Fragile X can provide a homogeneous research population for advancing the understanding of neuropsychiatric disorders;

''Whereas with concerted research efforts, a cure for Fragile X may be developed;

''Whereas Fragile X research, both basic and applied, has been vastly underfunded despite the prevalence of the disorder, the potential for the development of a cure, the established benefits of available treatments and intervention, and the significance that Fragile X research has for related disorders; and

''Whereas the Senate as an institution and Members of Congress as individuals are in unique positions to help raise public awareness about the need for increased funding for research and early diagnosis and treatment for the disorder known as Fragile X: Now, therefore, be it''.

AMENDMENT NO. 3820

Amend the title so as to read: ''Designating July 22, 2000, as 'National Fragile X Awareness Day'.''

The resolution (S. Res. 268), as amended, was agreed to.

ORDERS FOR THURSDAY, JULY 13, 2000

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 8:30 a.m. on Thursday, July 13.

I further ask unanimous consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume H.R. 8, the Death Tax Elimination Act.

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

PROGRAM

Mr. WARNER. Mr. President, for the information of all Senators, at 8:30 a.m. the Senate will resume debate of that legislation. By previous consent at 9:30 a.m., the Senate will proceed to the final three votes on the Defense authorization bill. Following the votes, the Senate will return to consideration of the death tax bill with amendments expected to be offered and voted on throughout the day.

As a reminder, Senators should be prepared to complete action on the death tax legislation and the reconciliation bill prior to this week's adjournment.

As previously indicated by the leader, a late session on Friday and a Saturday session may be necessary.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:53 p.m., adjourned until Thursday, July 13, 2000, at 8:30 a.m.